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Industrial Sociology (Elective)

SEMESTER IV

SOCIOLOGY

BLOCK- 2

KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY

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BLOCK INTRODUCTION

This is the second block of the course Industrial Sociology. This block cosists of eight units.

The first unit is unit 8 which is titled as Machinery for prevention and Settlement of Industrial Dispute: Statutory and Non-Statutory measures for dispute settlement. This unit will discuss various statutory and non-statutory measure to settle disputes.

The second unit in this block is Unit 9 which is titled as Collective Bargaining. This unit will discuss the meaning, objectives and features of collective bargaining.

The third unit is unit 10 which is titled as The Industrial Dispute Act, 1947 (Part A). This unit seeks to discuss the objective of the act, illegal strikes and lock-outs

The fourth unit is unit 11, titled as The Industrial Disputes Act, 1947 (Part B). This unit will discuss the history, authorities under the act, procedures and powers of authorities.

The fifth unit is unit 12, titled as Labour Legislation: An Introduction. This unit will discuss the background of labour legislation and the international labour Organisation

The sixth unit is unit 13 titled as Minimum Wages Act, 1948. This unit will discuss the objective, scope of the act and the safegaurds and enforcement of the Act.

The seventh unit is unit 14 which is titled as the Payment of Wages Act, 1936.This unit will discuss the definition of wage, responsibility for payment of wages and the claims for wrongful deductions.

The eighth unit is unit 15 which is titled as the Industrialisation in context of Northeast India.This unit will discuss about industrialisation in northeast India and the problems and prospects of industrialisation in the region.

While going through this paper, you will notice that some boxes are put in the left hand you may find some boxes marked with: “LET US KNOW”. These boxes will provide you with some additional interesting and relevant information. The boxes marked with “ACTIVITY” will help you in making your learning more active and efficient. And, at the end of each section, you will get “CHECK YOUR PROGRESS” questions. These have been designed to self-check your progress of study. It will be better if you solve the problems put in these boxes immediately aftacser you go through the sections of the units and then match your answers with “ANSWERS TO CHECK YOUR PROGRESS” given at the end of each unit.

UNIT 8: MACHINERY FOR PREVENTION AND SETTLEMENT OF INDUSTRIAL DISPUTE

UNIT STRUCTURE

8.1 Learning Objectives

8.2 Introduction

8.3 Statutory Measures for Dispute Settlement

8.4 Non-Statutory Measures for Dispute Settlement

8.5 Let Us Sum Up

8.6 Further Reading

8.7 Answers to Check Your Progress

8.8 Model Questions

8.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- discuss the various statutory measures for prevention and settlement of industrial disputes in India
- describe the various non- statutory measures for prevention and settlement of industrial disputes in India.

8.2 INTRODUCTION

In this unit we will discuss on the statutory measures for prevention and settlement of industrial disputes in India.

It is said, “Prevention is better than cure”. The same stands true in respect of Industrial Disputes as well. Having realized the need to prevent disputes, there has been designed various statutory as well as non-statutory measures to prevent and settle industrial disputes in the country. The major among them finds mention in this unit.

8.3 STATUTORY MEASURES FOR DISPUTE SETTLEMENT

The following is the machinery for prevention and settlement of industrial disputes provided by the Industrial Disputes Act, 1947:

1. **Works Committees:** Under the Industrial Disputes Act 1947, works committees exist in industrial establishments in which one hundred or more workmen are employed during the previous year. It consists of an equal number of representatives of workmen and employer.

   The duty of the works committee is to promote measures for securing and preserving amity and good relations between the employer and workmen. Among the other matters that the committee deals in are - conditions of work, amenities, safety and accident prevention, educational and recreational activities, promotion of thrift and saving etc. However, the following items do not fall under the purview of the Works Committee:

   i) Wages and allowance (ii) Bonus and profit sharing schemes (iii) Rationalisation and matters connected with fixation of workload (iv) Provident Fund, gratuity schemes and the retiring benefits (v) Quantum of leave and national and festival holidays (vi) Retrenchment and lay-off (vii) Victimisation for trade union activities (viii) Matters connected with the fixation of standard labour force (ix) Programmes of planning and development (x) Incentive schemes (xi) Housing facilities.

2. **Court of Enquiry:** The government may appoint a court of enquiry for enquiring into any industrial dispute. A court may consist of one or more persons; in case of more than one person, one of the persons will be the chairman. The court shall enquire into the matter and submit its report to the Government within a period of six months.

3. **Labour Courts:** The government has set up Labour Courts for dealing with the matters specified in the Second Schedule of the Industrial Disputes Act 1947. These matters include:

   (i) The propriety or legality of an order passed by an employer under the standing orders.

   (ii) The application and interpretation of standing orders.

(iii) Discharge or dismissal of workmen including reinstatement, or grant or, relief to workmen wrongfully dismissed.

(iv) Withdrawal of any customary concession or privilege.

(v) Illegality or otherwise of a strike or lock-out, and

(vi) All matters other than those specified in the Third Schedule.

4. Industrial Tribunals: A Tribunal is appointed by the Government for the adjudication of Industrial Disputes relating to any matter specified in the Third Schedule of the Industrial Disputes Act 1947. These matters include the following:

(i) Wages including the period and mode of payment.

(ii) Compensatory and other allowances.

(iii) Hours of work and rest intervals.

(iv) Leave with wages and holidays.

(v) Bonus, profit sharing, provident fund and gratuity.

(vi) Shift working otherwise than in accordance with standing orders.

(vii) Classifications by grades.

(viii) Rules of discipline.

(ix) Rationalisation.

(x) Retrenchment of workmen and closure of establishment.

(xi) Any other matter that may be prescribed.

The Industrial Tribunal consists of only one person who is appointed by the Government and he should either be a Judge of a High Court or District Judge for a period of not less than three years. It makes an award after hearing the parties to the dispute and the award is binding on them.

5. National Tribunal: A National Tribunal is constituted by the Central Government for the adjudication of industrial disputes involving issues of national importance. A National Tribunal consists of only one person who is appointed by the Central Government. A person who is or has been a Judge of High Court or who has held the office of the Chairman or member of the Labour Appellate Tribunal is eligible for appointment in this tribunal.



CHECK YOUR PROGRESS

Q 1: Name the statutory methods of prevention and settlement of industrial disputes.

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.....

8.4 NON-STATUTORY MEASURES FOR DISPUTE SETTLEMENT

An effective and congenial industrial relations system would prevail when it is ensured that wherever possible, the parties to the dispute resolve it through a consensus-based process such as conciliation and mediation, before reverting to arbitration and/or adjudication through a tribunal or labour court.

Thus, some of the major non-statutory industrial dispute settlement machinery are as follows:

1. **Conciliation:** Conciliation is a form of mediation. Mediation is the act of making active effort to bring two conflicting parties to compromise. Mediation, however, differs from conciliation in that whereas conciliator plays only a passive and indirect role, and the scope of his functions is provided under the law, the mediator takes active part and the scope of his activities are not subject to any statutory provisions.

a. **Conciliation Officers:** Conciliation Officers are appointed by the Government under the Industrial Disputes Act, 1947.

The Conciliation Officer is held responsible to deliver the following duties**:**

i. He has to do all that is necessary for bringing a fair and amicable settlement of the dispute. In case of public utility service, he must hold conciliation proceedings in the prescribed manner.

ii. He shall send a report to the government if the dispute is settled in the course of conciliation proceedings along with the memorandum of the settlement signed by the parties.

iii. Where no settlement is reached, conciliation officer sends a report to the government setting forth the steps taken by him for ascertaining the facts, circumstances relating to dispute and the reasons on account of which settlement could not be reached. The report shall be submitted within 14 days of the commencement of the conciliation proceedings.

In India, government of Bombay first introduced Conciliation and Labour Officer in 1934 when the Bombay Trade Dispute Conciliation Act was passed.

b. Board of Conciliation: In case the Conciliation Officer fails to resolve the differences between the parties, the government has the discretion to appoint a Board of Conciliation. The Board is a tripartite and ad hoc body consisting of a chairman and two or four other members.

The chairman is to be an independent person and other members are nominated in equal number by the parties to the dispute. Conciliation proceedings before a Board are similar to those that take place before the Conciliation Officer. The machinery of the Board is set in motion only when a dispute is referred to it. It is the duty of the Board to do all that is necessary to induce the parties to come to a fair and amicable settlement. The Board must submit its report to the government within two months of the date on which the dispute was referred to it – which is extendable by the government by another two months.

The Board is to deliver the following duties**:**

(a) Investigate the dispute and do all that is necessaryto induce the parties to come to a fair and amicable settlement.

(b) A report as to whether a dispute is settled or not within two months of the date on which the dispute was referred to it has to be sent to the government by the board.

2. Court of Inquiry: In case of the failure of the conciliation proceedings to settle a dispute, the government can appoint a Court of Inquiry to

enquire into any matter connected with or relevant to industrial dispute. The court is expected to submit its report within six months of its sitting. This report is subsequently published by the government within 30 days of its receipt. Unlike during the period of conciliation, workers' right to strike, employers' right to lockout, and employers' right to dismiss workmen, etc. remain unaffected during the proceedings in a court to enquiry. The court of enquiry consists of one or more persons as decided by the appropriate government.

A court of enquiry is different from a Board of Conciliation in that whereas theBoard of Conciliation aims at inquiring into and revealing the causes of an industrial dispute; the basic objective of the Court of Enquiry is to promote the settlement of an industrial dispute. Thus, a court of enquiry is primarily a fact-finding machinery.

3. **Voluntary Arbitration:** On failure of conciliation proceedings, the conciliation officer many persuade the parties to refer the dispute to a voluntary arbitrator. Voluntary arbitration refers to getting the disputes settled through an independent person chosen by the parties involved mutually and voluntarily.

Voluntary arbitration is one of the democratic ways for setting industrial disputes. It is the best method for resolving industrial conflicts and is a close' supplement to collective bargaining. It is based on the notion of self-government in industrial relations.

Arbitration offers an opportunity to solve the dispute through an arbitrator jointly appointed by the parties to the dispute. This process saves time and money of both the parties which is usually wasted in case of adjudication.

The method became popular with the advocacy of Mahatma Gandhi, who had applied it very successfully in the Textile industry of Ahmedabad. However, voluntary arbitration was lent legal identity only in 1956 when Industrial Disputes Act, 1947 was amended to include a provision relating to it. It may, however, be noted that the arbitrator is not vested with any judicial powers.

The arbitrator derives his powers to settle the dispute from the agreement that parties have made between themselves regarding the reference of dispute to the arbitrator. The arbitrator should submit his award to the government. The government will then publish it within 30 days of such submission which would become enforceable on the expiry of 30 days of its publication.

4. **Adjudication:** The ultimate remedy for the settlement of an industrial dispute is its reference to adjudication by labour court or tribunals when conciliation machinery fails to bring about a settlement. It consists of settling disputes through intervention by the third party appointed by the government. Adjudication is to be conducted by the Labour Court, Industrial Tribunal of National Tribunal.

A dispute can be referred to adjudication if only both the employer and the recognised union agree to do so. A dispute can also be referred to adjudication by the Government even if there is no consent of the parties in which case it is called 'compulsory adjudication'.



CHECK YOUR PROGRESS

Q 2: Name the non-statutory methods of prevention and settlement of industrial disputes.

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8.5 LET US SUM UP

In this unit we discussed the following:

- Some of the useful methods used for prevention and settlements of industrial disputes are: 1. Works Committees 2. Conciliation Officers 3. Boards of Conciliation 4. Court Of Enquiry 5. Labour Courts 6. Industrial Tribunals and 7. National Tribunal!

- Now a day, industrial relations are not a bipartite affair between the management and the labour. Government is playing an active role in promoting industrial relations. The concept of industrial relations has therefore, become a tripartite affair among the employees, employers and the government.
- Thus, some of the major non-statutory industrial dispute settlement machinery are as follows: 1. Conciliation 2. Court of Inquiry 3. Voluntary Arbitration 4. Adjudication.
- This machinery has been provided under the Industrial Disputes Act, 1947. It, in fact, provides a legalistic way of setting the disputes. As said above, the goal of preventive machinery is to create an environment where the disputes do not arise at all.



8.6 FURTHER READING

1) Hancock Keith and L and Sbury Rusell D (2016), *Industrial Relations Reform: Looking to the Future : Essays in honour of Joe Isaac AO*, Federation Press, Annandale (Australia).

2) Misra S N, *Labour and Industrial Law (2013)*, Central Law Publications, India.

3) Colling Trevor (2010), *Industrial Relations: Theory and Practice*, 3rd Edition, John Wiley & Sons, UK.

4) Purcell J, Good Industrial Relations (1981),Theory and Practice, Palgrave Macmillan, UK.

5) R. Sivarethinamohna (2010), Industrial Relations and Labour Welfare: Text and Cases, Prentice Hall India Learning Pvt Ltd, India.



8.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Some of the useful statutory methods used for prevention and settlements of industrial disputes are -1. Works Committees 2. Conciliation Officers 3.Boards of Conciliation 4. Court Of Enquiry 5. LabourCourts6. Industrial Tribunals and 7. National Tribunal

Ans to Q No 2: Some of the major non-statutory industrial dispute settlement machinery are as follows: 1. Conciliation 2. Court of Inquiry 3.Voluntary Arbitration 4.Adjudication.



8.8 MODEL QUESTIONS

Q 1: Write short notes on : a) Works Committees b) Conciliation Officers c) Boards of Conciliation d) Court Of Enquiry e) Labour Courts f) Industrial Tribunals and g) National Tribunal

Q 2: Distinguish between Statutory and Non-Statutory measures for prevention and settlement of Industrial Disputes.

Q 3: Compare and contrast between the functioning of the following dispute settlement machineries: a) Conciliation b) Voluntary Arbitration and c) Adjudication.

*** ***** ***

UNIT 9: COLLECTIVE BARGAINING

UNIT STRUCTURE

9.1 Learning Objectives

9.2 Introduction

9.3 Meaning and Concept of Collective Bargaining

9.4 Objectives of Collective Bargaining

9.5 Features of Collective Bargaining

9.6 Strategies and Approaches to Collective Bargaining

9.7 Collective Bargaining Process

9.8 Impact of Collective Bargaining

9.8.1 Position of Collective Bargaining in India

9.8.2 Politicization of Trade Union movement in India

9.9 Workers' Participation In Management

9.10 Let Us Sum Up

9.11 Further Reading

9.12 Answers to Check Your Progress

9.13 Model Questions

9.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- learn the meaning, features and strategies of Collective Bargaining
- discuss of the approaches to Collective Bargaining and the impact thereof
- describe Worker's Participation in Management.

9.2 INTRODUCTION

In this unit, we have tried to acquaint you with the subject matter "collective bargaining" as properly as possible. First we will get an idea about the meaning and concept of Collective Bargaining followed by the characteristics and features of Collective Bargaining.

Then we will come to know about the activities included in the collective bargaining process. The discussion also includes the nature and feature of it. You will come to know about the importance of collective bargaining in respect of employer, employee as well as the society.

To arrive at a harmonious solution to any conflicting issue, decisions based on mutual dialogues between the parties at stake is of vital importance. Collective Bargaining and Worker's Participation in Management are approaches designed to uphold this very philosophy.

This unit focuses on various aspects of the said topics so as to establish their significance in the work front.

9.3 MEANING AND CONCEPT OF COLLECTIVE BARGAINING

Collective bargaining is a process of negotiating between management and workers represented by their representatives for determining mutually agreed terms and conditions of work which protect the interest of both workers and the management.

Michael J. Jucious has defined collective bargaining as "a process by which employers, on the one hand, and representatives of employees, on the other, attempt to arrive at agreements covering the conditions under which employees will contribute and be compensated for their services".

According to Dale Yoder', "Collective bargaining is essentially a process in which employees act as a group in seeking to shape conditions and relation-ships in their employment".

By collective bargaining we mean the 'good faith bargaining'. It means that proposals are matched with counter proposals and that both parties make every reasonable effort to arrive at an agreement' It does not mean either party is compelled to agree to a proposal. Nor does it require that either party make any specific concessions.

It is called "collective" because both the employer and the employee act collectively and not individually in arriving at an agreement; and 'bargaining' because the process of reaching an agreement involves proposals and counter proposals, offers and counter offers.

9.4 OBJECTIVES OF COLLECTIVE BARGAINING

The basic objective of collective bargaining is to arrive at an agreement between the management and the employees determining mutually beneficial terms and conditions of employment. Among the other objectives are:

- It is a bipartite process because being a group process here you will find two groups. Representatives of employers and employees sit together to negotiate on the terms of employment in this process of collective bargaining.
- The phrase “collective bargaining” itself indicates a negotiative process through which the employer and employees get a considerable scope to discuss, compromise on the topic of mutual give and take between them. Thus it can be considered as a form of participation.
- Collective bargaining is a formalized process through which certain employment-related issues are regulated at national, organizational and workplace levels.
- Collective bargaining is considered as a process because it consists of a number of steps.
- Being a complementary process, here in this process of collective bargaining one party needs the thing that the other party has. For example labours can increase their productivity , but in return of it management has to pay them a better remuneration.
- An improvement in the relationship among the workers on one hand while between the union and the employer on the other hand is accepted to achieve through the process of collective bargaining.
- Collective Bargaining is a continuous process that tries to make the industrial democracy an effective one because there is use of cooperation and consensus in the process of collective bargaining in order to settle the disputes rather than conflict and confrontation.
- The process of collective bargaining is influenced by the day to

day changes in policies, potentialities, capacities and interests of the stakeholders etc.

- Collective bargaining can also be defined as a political activity in the sense that it can be frequently undertaken by professional negotiators too.



CHECK YOUR PROGRESS

Q 1: Define Collective Bargaining.

.....

.....

Q 2: List a basic objective of Collective Bargaining

.....

.....

9.5 FEATURES OF COLLECTIVE BARGAINING

- It is a group process, wherein one group, representing the employers, and the other, representing the employees, sit together to negotiate terms of employment.
- Collective bargaining is a process in the sense that it consists of a number of steps. It begins with the presentation of the charter of demands and ends with reaching an agreement, which would serve as the basic law governing labor management relations over a period of time in an enterprise. Mutual trust and understanding serve as the by products of harmonious relations between the two parties.
- It a bipartite process. This means there are always two parties involved in the process of collective bargaining. The negotiations generally take place between the employees and the management. It is a form of participation.
- Negotiations form an important aspect of the process of collective bargaining i.e., there is considerable scope for discussion, compromise or mutual give and take in collective bargaining.

- Collective Bargaining is continuous process. It enables industrial democracy to be effective. It uses cooperation and consensus for settling disputes rather than conflict and confrontation.
- Collective bargaining is a formalized process by which employers and independent trade unions negotiate terms and conditions of employment and the ways in which certain employment-related issues are to be regulated at national, organizational and workplace levels.
- Collective bargaining is a complementary process i.e. each party needs something that the other party has; labor can increase productivity and management can pay better for their efforts.
- Collective bargaining tends to improve the relations between workers and the union on the one hand and the employer on the other.
- Collective bargaining takes into account day to day changes, policies, potentialities, capacities and interests.
- It is a political activity frequently undertaken by professional negotiators.



CHECK YOUR PROGRESS

Q 3: State one feature of Collective Bargaining.

.....

.....

9.6 STRATEGIES AND APPROACHES TO COLLECTIVE BARGAINING

The collective bargaining process generally encompasses the following four types of activities:

- **Distributive-Bargaining:** In distributive bargaining, one party's gain is another party's loss. This is most commonly explained in terms of a pie. Disputants can work together to make the pie bigger, so there is enough for both of them to have as much as they want, or they can focus on cutting the pie up, trying to get as much as they can for themselves. In general, distributive bargaining tends to be more

competitive. It involves haggling over the distribution of surplus. Under it, the economic issues like wages, salaries and bonus are discussed. This type of bargaining is also known as conjunctive-bargaining.

- **Integrative-Bargaining:** This involves negotiation of an issue on which both the parties may gain, or at least neither party loses. In general, it tends to be more cooperative than distributive bargaining. This type of bargaining is also known as cooperative bargaining.
- **Attitudinal-Restructuring:** When there is a backlog of bitterness between both the parties, attitudinal restructuring is required to maintain smooth and harmonious industrial relations. It develops a bargaining environment and creates trust and cooperation among the parties. This involves shaping and reshaping some attitudes like trust or distrust, friendliness or hostility between labor and management.
- **Intra-organizational-Bargaining:** It generally aims at resolving internal conflicts. This is a type of maneuvering to achieve consensus with the workers and management. Even within the union, there may be differences between groups. Within the management also, there may be differences. Trade unions maneuver to achieve consensus among the conflicting groups.

There are three elements in the system of collective bargaining:-

- **Issues for consideration:** It is a matter of anxiety when the organization of workers is weak and they have to struggle for recognition by the employers. Under such a circumstance, they might have to fight for their union recognition as well as the union security. The issues are either of employment related aspects of the organization or the personal matters of employee and thus it includes the matters of wages, fringe benefits, working condition as well as the promotion, transfer, discharge and dismissal etc respectively.
- **Procedure for consideration**: The bargaining machinery and the procedure those are adopted to solve a problem may vary according to different circumstances. It is dependent upon the decision of two parties whether they ,that means, the employers or managements in

one hand and the workers as well as their unions on the other hand are willing to conduct the bargaining process either by their own or by involving a third party, such as the government intervenes to bring about a settlement between them.

- **Collective agreements and their implementation:** Collective agreement is a type of agreement which is the outcome of the process of collective bargaining and it occurs between an employer, a group of employers or one or more employer's organizations on the one hand and one or more representative worker 's organizations on the other hand. The collective bargaining agreement may also mean a compromise between the two parties both of whom have their own own self interest. The parties are agreed to abide by the rules and regulation mentioned in the agreements as a guide to carry on their relationship on certain matters for a specified period of time. It has been observed that in some countries, negotiations at the level of a single undertaking are preferred in view of the special conditions prevailing therein in opposite to the situation where the countries favour the negotiation at the level of industry as it tends to harmonise the working conditions as well as provide the uniform benefits to all the concern. The content of collective agreements vary considerably from plant to plant and from industry to industry and usually covers the items that are related to the wages, working conditions, working hours, fringe benefits and the job security etc. Legally a collective agreement binds not only the parties to it but also the persons on behalf of whom they are acting. It is always a common thing among the workers in a given undertaking that they may not belong to the union which has signed the agreements or that they are non-unionised. Therefore in a number of countries the law provides for compulsory coverage of agreements or settlements on the employers and all the employees in an establishment. There is no doubt that the proper implementation of the collective agreements as well as its afterwards monitoring is totally dependent on the good faith of the parties involved. In India, there are prevailing three types of agreements, namely :-

- voluntary agreements,
- settlements, and
- consent awards.

The type of collective agreement is known as voluntary agreement when it is the result of direct negotiation between the parties and when the parties are responsible for its implementation. Settlements are the collective agreements where you will find an intervention of government agencies. When the situation of reaching a collective agreement is that here in this case the matter of dispute is placed under the reference to industrial tribunal/ court, then the collective agreement is known as consent awards.

9.7 COLLECTIVE BARGAINING PROCESS

It is known to us that collective bargaining is generally a negotiative process that goes on between the representatives of employee and employer of the organization. In this bargaining process, employees are represented as a union or other labour organization which then negotiates with the employer to determine the conditions of employment. The system of collective bargaining results out the collective bargaining agreement (CBA) that may be either of procedural agreements or of substantive agreements.

Emphasising specially on the relationship between the workers and management, this procedural agreements denote the procedures to be adopted for resolving the individual or group disputes. Here, in this agreement, the procedures adopted to resolve the individual grievances, disputes as well as to maintain discipline in the industry should be cited properly. Generally, procedural agreements provide the information on the overall terms and conditions of employment and on the codes of behavior.Then the specific issues, such as basic pay, overtime premiums, bonus arrangements, holiday entitlements, hours of work, etc are covered in a substantive agreement. Agreements are usually signed for a fixed or definite period of time. Hence a procedural agreement has to be reviewed on timely when the negotiation takes place on the matter of pay and conditions of employment under the process of collective bargaining.

The collective bargaining process comprises of five core steps:

1. **Prepare:** In this step of collective bargaining, first a negotiation team is formed that consists of the representatives of both the employer and employee. These representatives posses the adequate knowledge and skills for negotiation. In this phase, first both the employer's representatives and the union examine or review their own situation. Then it is followed by a stage where a decision is taken regarding the issues/ matters of concern that they believe as the most important one to be raised/ included in the negotiation process. It is also tried by the representatives to find out the justified reason for choosing the topic for discussion i.e. to negotiate. We have to keep the following things in mind when we go for choosing the issue to be discussed like —— correct understanding of the main issues to be covered and intimate knowledge of operations, working conditions, production norms and other relevant conditions etc.
2. **Discuss:** Here in this stage, a discussion goes on between the parties involved about the ground rules that they will have to follower abide by during the process of negotiation. The process of collective bargaining is also not excluded from the saying that a process well begun is half done. In order to reach a collective bargaining agreement first an environment of mutual trust and understanding should be created among the members of the organization.
3. **Propose:** As all we know that propose means that the initial opening statements and the possible options those exist to resolve them. So, this phase of collective bargaining process also indicated the same thing. In a word, this phase can also be described as 'brainstorming' where there takes place an exchange of messages and opinions between the parties involved in the bargaining process.
4. **Bargain:** The parties involved in the bargaining process should posses a problem solving attitude in them. Then only the process of collective bargaining will be easy one. This stage comprises the time when 'what ifs' and 'supposals' are set forth and the drafting of agreements take place.

5. **Settlement:** In this stage, a permanent settlement is achieved i.e both the parties reach to an agreeable decision where both of them concise. Both the parties sign on the consignment and agree to abide by the terms and conditions written on it. Both the parties are agreed to support the common decision taken through mutually agreeable discussion regarding the problem or issue of negotiation. They also give the commitment to support the implementation of the agreement effectively through the joint effort of employer and employees via shared visions, strategic planning and negotiated change.



CHECK YOUR PROGRESS

Q 4: Mention the five core steps of the collective bargaining process.

i) .....

ii) .....

iii) .....

iv) .....

v) .....

9.8 IMPACT OF COLLECTIVE BARGAINING IN INDIA

Collective bargaining in India has been the subject matter of industrial adjudication since long and has been defined by our Law Courts. In *Karol Leather Karamchari Sangathan v. Liberty Footwear Company*(1961 I LLJ. 504) the Supreme Court observed that, “Collective bargaining is a technique by which dispute as to conditions of employment is resolved amicably by agreement rather than coercion.”

In *Ram Prasad Viswakarma v. Industrial Tribunal* (1972, LLJ. 212) the Court observed that, “It is well known how before the days of ‘collective bargaining’, labour was at a great disadvantage in obtaining reasonable terms for contracts of service from its employer.As trade unions developed in the country and Collective bargaining becamethe rule, the employers found it necessary and convenient to deal with the representatives of

workmen, instead of individual workmen, not only for the making or modification of contracts but in the matter of taking disciplinary action against one or more workmen and as regards of other disputes."

According to the Court, the Industrial Disputes Act, 1947 seeks to achieve social justice on the basis of collective bargaining. In an earlier judgment in Titagarh Jute Co. Ltd. v. SriramTiwari(1982 II LLJ 491) , the Calcutta High Court clarified that this policy of the legislature is also implicit in the definition of 'industrial dispute'.

In *Bharat Iron Works v. BhagubhaiBalubhaiPatel*(AIR 1990 SC 247), it was held that "Collective bargaining, being the order of the day in the democratic, social welfare State, legitimate trade union activities, which must shun all kinds of physical threats, coercion or violence, must march with a spirit of tolerance, understanding and grace in dealings on the part of the employer. Such activities can flow in healthy channel only on mutual cooperation between the employer and the employees and cannot be considered as irksome by the management in the best interests of its business. Dialogue with representatives of a union help striking a delicate balance in adjustments and settlement of various contentious claims and issues."

These cases and their consequent decisions only bring out the basic element in the concept i.e., civilized confrontation between employers and employees and the whole process is regulated by statutory provisions.

9.8.1 Position of Collective Bargaining in India

The history of the trade union movement shows that unions are affiliated to one or the other political parties. As a result most of the trade unions are controlled by outsiders. Critics say that the presence of outsiders, is one of the important reasons for the failure of collective bargaining in India.

The Trade Unions Act, 1926, permits outsiders to be the office bearers of a union to the extent of half the total number of office bearers. Among them, to be the leader of the union, one does not have to actually work in the industry. Experience shows that

outsiders who have little knowledge of the background of labour problems, history of labour movement, fundamentals of trade unionism and the technique of the industry and with even little general education assume the charge of labour union and become the self-appointed custodian of the welfare of workers. The employers, therefore, have been reluctant to discuss and negotiate industrial matters with outsiders, who have no personal or direct knowledge of day to day affairs of the industry. Employees also refuse recognition to the unions which are either controlled by the politicians or affiliated to a particular political party or controlled by a particular individual. Owing thereto, it has been observed that he State must outright ban "outsiders" from the trade union body. Further, provision for political funds by trade unions should be eliminated, since it invariably encourages the politicians to prey upon them. This aspect has, however, been overlooked by the National Commission on Labour. The Commission does not favour a legal ban on non-employees for holding the union office. It is only hopeful that internal leadership would develop through their education and training. This is considered as a gradual process. Accordingly the Commission suggests proportion of the outsiders and the workers in a union executive. However, on realizing the problems of outsiders in the Union, the Industrial Relations Bill, 1988 proposes to reduce the number of outsiders to two only.

9.8.2 Politicization of Trade Union movement in India

The Trade-Union Movement in India is divided on political lines and exists on the patronage of various political Parties. Political patronage of trade-unions has given a new direction to the movement whose center of gravity is no longer the employees or workmen. Since the public sector which is really the instrumentality of the State, has emerged as the biggest employer in this country, the collective bargaining -between the union patronized by the party-in-power and the employer has become an important methodology in the search

for workers votes by political parties. It is because of this process that agreements conferring benefits are signed even in those units where financial losses are mounting. Observations are also indicative of instances when in spite of wage increase end improved conditions of service; there has been no corresponding improvement in production or the productivity. Rather losses are found to be passed on to the consumers by increasing prices of the products.

9.9 WORKERS' PARTICIPATION IN MANAGEMENT

WPM means different things to different people depending upon their objectives and expectations. For example, for management it is a joint consultation prior to decision making, for workers it means co-determination, for trade unions It is the harbinger of a new order of social relationship and a new set of power equation within organisations, while for government it is an association of labour with management without the final authority or responsibility in decision making.

In the words of Mehtras "Applied to industry, the concept of participation means sharing the decision-making power by the rank and file of an industrial organisation through their representa-tives, at all the appropriate levels of management in the entire range of managerial action".

According to Keith Davis, "Workers' participation refers to the mental and emotional involve-ment of a person in a group situation which encourages him to contribute to group goals and share in responsibility of achieving them".



CHECK YOUR PROGRESS

Q 5: Define Workers' Participation in Management.

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9.10 LET US SUM UP

In this unit we have discussed the following:

- Collective bargaining is a process of negotiating between management and workers represented by their representatives for determining mutually agreed terms and conditions of work which protect the interest of both workers and the management. According to Dale Yoder', "Collective bargaining is essentially a process in which employees act as a group in seeking to shape conditions and relation-ships in their employment".
- The basic objective of collective bargaining is to arrive at an agreement between the management and the employees determining mutually beneficial terms and conditions of employment.
- A detailed description about the five core steps namely- prepare, discuss, propose, bargain and settlement of collective bargaining process is given in this unit.
- Collective Bargaining machinery essentially is a reflection of a particular social and political climate. The history of the trade union movement shows that unions are affiliated to one or the other political parties. As a result most of the trade unions are controlled by outsiders. Critic says that the presence of outsiders, is one of the important reasons for the failure of collective bargaining in India.
- According to Keith Davis, "Workers' participation refers to the mental and emotional involve-ment of a person in a group situation which encourages him to contribute to group goals and share in responsibility of achieving them".



9.11 FURTHER READING

1) Ratnam C S V (2003), Negotiated Change: Collective Bargaining, Liberalization and Restructuring in India, 1st edition,SAGE Publications Pvt. Ltd, India,

2) Patil B R (2000), Collective Bargaining, Orient Blackswan Pvt Ltd., New Delhi,

3) Current Approaches to Collective Bargaining by ILO,International Labour Office (6 September 1989)



9.12 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: According to Dale Yoder', "Collective bargaining is essentially a process in which employees act as a group in seeking to shape conditions and relation-ships in their employment".

Ans to Q No 2: The basic objective of collective bargaining is to arrive at an agreement between the management and the employees determining mutually beneficial terms and conditions of employment.

Ans to Q No 3: One of the features of Collective Bargaining is that it is a formalized process by which employers and independent trade unions negotiate terms and conditions of employment and the ways in which certain employment-related issues are to be regulated at national, organizational and workplace levels.

Ans to Q No 4: (i) Prepare

(ii) Discuss

(iii) Propose

(iv) Bargain

(v) Settlement

Ans to Q No 5: According to Keith Davis, "Workers' participation refers to the mental and emotional involve-ment of a person in a group situation which encourages him to contribute to group goals and share in responsibility of achieving them".



9.13 MODEL QUESTIONS

Q 1: Draw attention to the concept, features and advantages of Collective Bargaining as a tool for decision-making and dispute management in industries.

Q 2: Highlight a few strategies of Collective Bargaining often found to be in practice in indian industries.

Q 3: Project a comparative discussion on the different approaches to Collective Bargaining.

Q 4: Being one of the primary stakeholders of any industrial relations, Workers' Participation in Management can prove to be a fruitful step towards maintaining a congenial relationship in the industry. Comment.

Q 5: Explain the process of collective bargaining.

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UNIT 10 : THE INDUSTRIAL DISPUTES ACT, 1947 (part-A)

UNIT STRUCTURE

10.1 Learning Objectives

10.2 Introduction

10.3 Objectives of the Act

10.4 Important Definitions

10.5 Illegal Strikes and Lock-outs

10.6 Unfair Labour Practices

10.7 Let Us Sum Up

10.8 Further Reading

10.9 Answers To Check Your Progress

10.10 Model Questions

10.1 Learning Objectives

After going through this unit, you will be able to:

- explain the objectives and scope the Industrial Disputes Act, 1947
- define the different definitions
- explain Strikes, Lock-outs, Lay off ,Retrenchment, Transfer and Closing down of undertakings
- explain the meaning of Unfair Labour Practices

10.2 INTRODUCTION

The first Act regarding the dealing with industrial dispute was the Employees' and Workman's Disputes Act, 1860 which later replaced by Trade Dispute Act, 1929 as it weighed much on the workers. But later this Act also fails to create favorable atmosphere in the industry and settlement the disputes. After Second World War, the necessity of speedy redress of the industrial disputes was given much stress. Thus it gives the result of the Industrial Disputes Act, 1947. In this unit, we are going to discuss about Industrial Disputes Act, 1947 and details about its

objectives and scope .This unit also encompasses the different important definitions under the Act. You will also get to know about the different meaning of strikes, lock-outs, lay off, retrenchment, transfer and closing down of undertakings.The unit also, discusses about the meaning of Unfair Labour Practices. Thus, you will be able to explain the basic object of passing of this Act and different prohibition when the strikes, lock-out set become illegal.

10.3 OBJECTIVES OF THE ACT

The Industrial Disputes Act, 1947 extends to the whole of India whether it is private or Government undertaking. The Act amended from time to time. The basic objectives of the Act are to ensure fair terms to the workman and prevent disputes between employers and employees so that production of the industry does not effect.

In the case of Workmen of Dimakuchi Tea Estate v. Dimakuchi Tea Estate, AIR 1958 S.C. 353, the Supreme Court laid down the following objectives of the Act:

- Promotion of measures of securing and preserving amity and good relations between the employers and workmen.
- Investigation and settlement of industrial disputes between employers and employers, employers and workmen, workmen and workmen with a right of representation by registered trade union or federation of trade unions or an association of employers or a federation of associations of employers.
- . Prevention of illegal strikes and lock outs.
- Promotion of collective bargaining.

Thus, it is important that all the indifferences should be settle and decided with such care that neither party get undue leverage.



LET US KNOW

The Industrial Disputes Act, 1947 is a central act which came into operation on 1st April 1947. This Act received the asset of the President on 31.8.1982. The latest amendment to the Act was made in 1984.



CHECK YOUR PROGRESS

Q1. Mention one objective of the Industrial Disputes Act, 1947.

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10.4 IMPORTANT DEFINITIONS

Some important definitions are given below—

- **Industry :**

Section2 (j) under the Industrial Disputes Act, 1947 define the term 'industry'. It means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,--

- any capital has been invested for the purpose of carrying on such activity; or
- such activity is carried on with a motive to make any gain or profit, and includes–
  - any activity of the Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948;

- any activity relating to the promotion of sales or business or both carried on by an establishment. but does not include-
- any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one.

- **Explanation :**- For the purposes of this sub-clause, "agricultural operation" does not include any activity carried on in a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951; or
  - hospitals or dispensaries; or
  - educational, scientific, research or training institutions; or
  - institutions owned or managed by organizations wholly or substantially engaged in any charitable, social or philanthropic service; or
  - khadi or village industries; or
  - any activity of the Government related to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defense research, atomic energy and space; or
  - any domestic service; or
  - any activity, being a profession practiced by an individual or body or individuals, if the number of persons employed by the individual or body of individuals in relation to such profession is less than ten; or
  - any activity, being an activity carried on by a co-operative society or a club or any other like body of individuals, if the number of persons employed by the co-operative society, club or other like body of individuals in relation to such activity is less than ten.

Now let us see whether the following activities would fall under

industry or not :

- **Municipalities :** If a municipality discharges many functions some pertaining to industry and other are non industry, the predominant function of the department shall be the criterion for the purpose of the Act. Some industry falls under like, Tax, Public Conveyance, Lighting, Health, Market, Public Garden etc.
- **Hospitals and Charitable institutions :** Absence of profit motive or gainful objective is irrelevant for "industry:" be the venture in the public, joint, private or other sector. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations. The charitable institutions fall into three categories:
  - Those that yield profit but the profits are not use for their own, rather use for other purposes i.e. the profit that earned is siphoned off for altruistic purposes.
  - Those that make no profit but hire the services of employees as in any other business.
  - Those that are oriented on a human mission fulfilled by men who work not because they are paid wages but share the passion and job derive satisfaction.

Here the first two are industries but not the third.

- **Clubs :** Without destroying the non-employee character of the definition of 'industry', and hire a minimal matters of marginal employees, clubs can be said as industry.
- **Universities :** As regards institution, if the triple tests of the definition of 'industry' done i.e. systematic activity, cooperation between employer and employee and production of goods and services were to be applied, a university, a college, a research institute or teaching institute will be 'industry'.
- **Professional firm :** Professional firm like lawyers, doctors etc follow the personal character of the relationship between a doctor or a lawyer with his professional assistant may be of such a kind that

requires complete confidence and harmony in the productive activity in which they may be cooperating; and as they have the character of the test of having direct relation between capital and labour in the production of goods or in rendering of service or that cooperation between employer and employees in carrying the service, professional firm can be 'industry'.

- **Voluntary services :** If for a certain pious mission, many employees' provide free service for a nominal cost or on the master and servant relationship, then the institute is not an industry.



LET US KNOW

The Supreme Court in the decision of the Bangalore Water Supply and Sewerage Board V. A. Rajappa and others had while interpretining the definitation of industry as contained in the Act, observed that Government might restructure the definitation by suitable legislative measures.



CHECK YOUR PROGRESS

Q.1. Mention whether the following activities would fall under industry or not under Industrial Disputes Act, 1947.

a. Voluntary services, b. Municipalities

a) .....

b) .....

- **Industrial Disputes :** "Industrial dispute" means any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person [Section 2(k)].

  Thus the above definition can be analysed as:

- ***Existence of a disputes or difference:*** An industrial dispute exists only when the same has been raised by the workmen with the employer. Unless there is a demand by the workmen and that demand is not complied with by management, there can not be any Industrial dispute within the meaning of Section 2(k).
- ***Parties to the disputes:*** Industrial dispute mean that the dispute must affect a large groups of workmen and employers ranged on opposite sides. Thus, there should be community of interest in the disputes. The disputes can be raised by workmen themselves or their union or federation on their behalf. A dispute may initially be an individual dispute. But the workmen may make that dispute as their own that they have a community of interest and are directly and substantially interested in the employment, non-employment, or conditions of work of the concerned workmen. All workmen need not to join the dispute. It may have been raised by a minority group of workmen.
- ***Subject matter of dispute :*** The disputes should relate to the employment, non-employment, or conditions of work of the workmen. It is a wider term which refers the amenities to be provided to the workmen and the conditions under which they will be required to work. The matters are like safety, health and welfare of workers.
- ***Dispute in an 'industry' :*** The difference or the dispute must relate to an 'industry' as defined under Section2 (j) of Industrial Disputes Act, 1947. No industrial dispute can exist without an industry.

- **Workman :** According to the section 2(s) "Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding

under this Act in relation to an industrial dispute, includes :

- any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or
- whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person :
  - who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
  - who is employed in the police service or as an officer or other employee of a prison; or
  - who is employed mainly in a managerial or administrative capacity; or
  - who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per month or
  - who, exercising, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

- **Strike :** "Strike" means a cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment [section 2(q)];

  Essentials of strike :

  - Strike can be take place only when there is a cessation of work or refusal to work by the workmen acting in combination or a concerted refusal.
  - A concerted refusal under a common understanding of any number of persons to continue to work or to accept employment will amount to a strike.
  - The striking workmen must be employed in an 'industry'.

- Even when workmen cease to work, the relationship of employer and employee is deemed to continue and it may in a state of belligerent suspension.

- **Lock-out :** "Lock-out" means the temporary closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him [Section 2 (l)].

  Essentials of lock-out :

  - There is temporary closing of a place of employment or the suspension of work.
  - There is an element of demands for which the place of employment is locked –out or closed;
  - There is an intention to re-employ the workers if they accept the demands.

- **Lay-off:** "Lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of to give employment to a workman whose name is borne on the master rolls of his industrial establishment and who has not been retrenched, for the following reasons,

  - shortage of coal, power or raw materials or
  - the accumulation of stocks or
  - the breakdown of machinery or
  - natural calamity or
  - for any other connected reason [Section 2 (kkk)].

  Explanation to section 2 (kkk) provides that every workman whose name is borne on the master rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

  Provided that if the workman, instead of being given employment

at the commencement of any shift for any day is asked to present himself for the purpose during the, second half of the shift for the day and is given employment then, he shall be deemed to have been laid off only for one-half of that day.

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day.

Difference between lock out and lay off:

The concept of 'lock-out' is essentially different from the concept of 'lay-off'. The points of distinction between 'lay-off' and 'lock-out' may be broadly stated as follows :

- 'Lay-off' generally occurs in continuous business, whereas 'lock-out' is closure of business for the time-being.
- In the case of 'lay-off' owning to the reasons specified in Section 2(kk). Here, the employer is unable to give employment to one or more workmen, whereas in 'lock-out' the employer deliberately closes the business and locks out the whole body of workmen for reasons which have no relevance to the causes specified in Section 2 (kkk).
- 'Lock-out' is resorted to by the employer as a weapon of collective bargaining and also ordinarily involves an element of malice or ill-will while 'lay-off' is actuated by the exigencies of the business.
- The provisions applicable to the payment of 'lay-off' compensation cannot be applied to the case of 'lock-out.'

But there are some resemblances also:

- both 'lay-off' and 'lock-out' are temporary in nature and both arise out of and exist during an emergency though the nature of emergencies in each case is different.
- both in 'lay-off' and 'lock-out', the relationship of employment is only suspended and is not severed.

- 'lay-off' resorted to in contravention of the provisions of Section 25-M is illegal and punishable under Section 25Q, while 'lock-out' declared in contravention of the provisions of Section 10(3), 10A (4A), 22 or 23 is illegal and punishable under Section 26 of Industrial Disputes Act, 1947. The rule regarding the second half of the suit was omitted in West Bengal by an amendment of the Industrial Dispute Act in 1974.

- **Retrenchment:** According to section 2(o o) retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include--
  - voluntary retirement of the workman; or
  - retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

2*[(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein;] or

- termination of the service of a workman on the ground of continued ill-health[Section 2(o o)].

Essentials of Retrenchment:

- There should be termination of the service of the workmen.
- The termination should be by the employer.
- The termination is not the result of punishment inflicted by way of disciplinary action.
- The definition excludes termination of service on the specified grounds or instances mentioned in it.

- **Settlement:** "Settlement" means a settlement arrived,
  - at in the course of conciliation proceeding and

- includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding, where, such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer [Section 2(p)].

- **Appropriate Government:**

"Appropriate Government" means -

- in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government or by a railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning [a Dock Labour Board established under Section 5-A of the Dock Workers (Regulation of Employment) Act, 1948 or [the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956] or the Employees State Insurance Corporation established under Section 3 of the Employees State Insurance Act, 1948, or the Board of Trustees constituted under Section 3-A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, or the Central Board of Trustees and the State Boards of Trustees constituted under Section 5a and Section 5b, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, or the Life Insurance Corporation of India established under Section 3 of the Life Insurance Corporations Act, 1956, or [the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956 (1 of 1956) or the Deposit Insurance and Credit Guarantee Corporation established under Section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, or the Central Warehousing Corporation

established under Section 3 of the Warehousing Corporations Act, 1962, or the Agricultural Refinance and Development Corporation established under Section 3 of the Agricultural Refinance and Development Corporation Act 1963, or the Unit Trust of India established under Section 3 of the Unit Trust of India Act, 1963 or the Food Corporation of India established under Section 3 or a Board of Management established for two or more contiguous States under Section 16 of the Food Corporation Act, 1961, or [the Airports Authority of India Act, 1994 (33 of 1994) or a Regional Rural Bank established under Section 3 of the Regional Rural Banks Act, 1976 or the Export Credit and Guarantee Corporation Limited for the Industrial Reconstruction Corporation of India Limited, or [an air transport service, or a banking or an insurance company], [a mine, an oil-field], [a Cantonment Board], or a major port, the Central Government, and

- in relation to any other industrial dispute, the State Government [Section 2(a)].

- **Public Utility Service:**

"Public utility service" means-

- any railway service [or any transport service for the carriage of passengers or goods by air;
- any service in, or in connection with the working of, any major port or dock;]
- any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;
- any postal, telegraph or telephone service;
- any industry which supplies power, light or water to the public:
- any system of public conservancy or sanitation:
- any industry specified in the [First Schedule] which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in

the Official Gazette, declare to be public utility service for the purposes of this Act, for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time, if in the opinion of the appropriate Government, public emergency or public interest requires such extension [Section 2(n)].

10.5 ILLEGAL STRIKES AND LOCK-OUTS

The justification of strikes depends on the fairness and reasonableness of demands made by workmen. It is not merely because they have all legitimate options open for getting their demands fulfilled. Thus, the legality of strike is determined with reference to the legal provisions enumerated in the Act. Sections 10 (3), 10A (4A), 22 and 23 of the Act deals with strikes and lock-outs. Section 22 and 23 of the Act deals with restriction on the commencement and Sections 10 (3), 10A (4A) prohibits the continuance of strikes and lock-outs.

- ***General prohibition of strikes and lock-outs*** – No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out: —
  - during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;
  - during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal and two months after the conclusion of such proceeding.
  - during the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under sub-section (3-A) of Section 10-A; or

- during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award (Section 23).

The basic purposes of these provisions are to ensure a peaceful atmosphere during the pendency any proceeding before Labour Court, Tribunal, National Tribunal or Arbitrator.

- **Prohibition of strikes and lockouts**—

(1) No person employed in a public utility service shall go on strike in breach of contract

- without giving to the employer notice of strike, -as hereinafter provided, within six weeks before striking; or
- within fourteen days of giving such notice; or
- before the expiry of the date of strike specified in any such notice as aforesaid; or
- during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen–

- without giving them notice of lock-out as hereinafter provided, within six weeks before locking-out; or
- within fourteen days of giving such notice; or
- before the expiry of the date of lock-out specified in any such notice as aforesaid; or
- during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence of a strike or, as the case be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular

class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such a manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such a manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe, the number of such notices received or given on that day.

- **Illegal strikes and lock-outs** –
  - A strike or a lock-out shall be illegal if-
  - it is commenced or declared in contravention of Section 22 or Section 23, or
  - it is continued in contravention of an order made under sub-section (3) of Section 10 or sub-section (4-A) of Section 10-A.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, an arbitrator, a Labour Court, Tribunal or National Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of Sec. 10 or sub-section 4 (A) of Section 10-A.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

10.6 UNFAIR LABOUR PRACTICES

It means any of the practises specified in the Fifth schedule [Section 2(ra]. Under Section 25T, no employer or workman or a Trade Union whether registered under the Trade Unions Act, 1926 or not shall commit any unfair labour practices. Section 25U provides that any person who commits any such acts shall be punishable for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

The **fifth schedule under section 2(ra)** of unfair labour practices includes:

On the part of employers and trade unions of employers

- To interfere with, restrain from, or coerce, workmen in the exercise of their right to organise, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say-
  - threatening workmen with discharge or dismissal, if they join a trade union,
  - threatening a lock-out or closure, if a trade union is organized,
  - granting wage increase to workmen at crucial periods of trade union organisation, with a view to undermining the efforts of the trade union at organisation.
- To dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say,
  - an employer taking an active interest in organizing a trade union of his workmen; and
  - an employer showing partiality or granting favour to one of several trade unions attempting to organize his workmen or to its members, where such a trade union is not a recognized trade union.
- To establish employer-sponsored trade unions of the workmen.
- To encourage or discourage membership in any trade union by discriminating against any workman, that is to say- Taj discharging or punishing a workman, because he urged other workmen to join

or organize a trade union,

- discharging or dismissing a workmen for taking part in any strike (not being strike which is deemed to be an illegal strike under this Act),
- changing seniority rating of workmen because of trade union activities,
- refusing to promote workmen to higher posts on account of their trade union activities,
- giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union.
- discharging office-bearers or active members of the trade union on account of their trade union activities.

- To discharge or dismiss workmen-
  - by way of victimization;
  - not in good faith, but in the colorable exercise of the employer's rights;
  - by falsely implicating a workman in criminal case on false evidence or on concocted evidence;
  - for patently false reasons;
  - on untrue or trumped up allegations of absence without leave;
  - in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;
  - for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.
- To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.
- To transfer a workman mala fide from one place to another, under the guise of following manageent policy.
- To insist upon individual workmen, who are on a legal strike to sign a

good conduct bond, as a pre-condition to allowing them to resume work.

- To show favoritism or partiality to one 'set' of workers regardless of merit.
- To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of per-manent workmen.
- To discharge or discriminate against any workman for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.
- To recruit workmen during a strike which, is not an illegal strike.
- Failure to implement award, settlement or agreement.
- To indulge in acts of force or violence.
- To refuse to bargain collectively, in good faith with the recognized trade unions.
- Proposing or continuing a lock-out deemed to be illegal under this Act.

//.) On the part of workmen and trade unions of workmen.

- To advise or actively support or instigate any strike deemed to be illegal under this Act.
- To coerce workmen in the exercise of their right to self-organisation or to join a trade union or refrain from joining any trade union, that it is to say-
  - for a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places;
  - to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.
- For a recognised union to refuse to bargain collectively in good faith with the employer.
- To indulge in coercive activities against certification of a bargaining representative.
- To state, encourage or instigate such forms of coercive

actions as wilful 'go-slow', squatting on the work premises after working hours or "gherao" of any of the members of the managerial or other staff.

- To stage demonstrations at the residences of the employers or the managerial staff members.
- To incite or indulge in willful damage to employer's property connected with the industry.
- To indulge in acts of force or violence or to hold out threats or intimidation against any workman with a view to prevent him from attending work.



LET US KNOW

When an employer of a public utility service receives notice of strike or gives notice of a lock-out, he must within five days report to the appropriate Government or the authority appointed by such Government for this purpose. [Section 22(6)]



CHECK YOUR PROGRESS

Q.1. Fill in the blanks with appropriate words:

i) Industrial Dispute is defined under section.....

ii) Workmen in defined under section.....

iii) Strike is defined under section .....

iv) Lock out is defined under section .....



10.7 LET US SUM UP

In this unit, we have discussed the following :

- The Industrial Disputes Act, 1947 applies to all industries.
- The main objective of the Industrial Disputes Act, 1947 are,

  a) promotion of measures of securing and preserving amity and good relations between the employers and workmen

  b) Investigation and settlement of industrial disputes.
- Section 22 and 23 of the Act deals with restriction on the commencement and Sections 10 (3), 10A (4A) prohibits the continuance of strikes and lock-outs.
- The unfair labour practises specified in the Fifth schedule [Section 2(r a)] of the Industrial Disputes Act, 1947.



10.8 FURTHER READING

1) The Workmen's Compensation Act, 1923; (Bare Act)

2) Industrial Law, by P. L. Malik

3) Handbook of Industrial Law, by N. D. Kapoor



10.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No.1: The main objective of Industrial Disputes Act, 1947 is,

i.) Promotion of measures of securing and preserving amity and good relations between the employers and workmen.

Ans to Q No. 2: a) Voluntary services: If for a certain pious mission, many employees' free service or supply free service for a nominal cost or on the master and servant relationship, then the institute is not an industry.

b. Municipalities: Municipality discharges many functions. Some pertaining to industry and other are non industry. The predominant function of the department shall be the criterion for the purpose of the Act. Some industry falls under like, Tax, Public Conveyance, Lighting, Health, Market, Public Garden etc.

Ans to Q No. 3: i) 2 (k) ii) 2(s) iii) 2 (q) iv) 2 (i)



10.10 MODEL QUESTIONS

1. What are the objectives of the Industrial Disputes Act, 1947?
2. Define the terms:
   a. Industrial Disputes
   b. Industry
   c. Workmen
   d. Public utility service
4. Mention a few unfair labour practices on the part of employers and on the part of workmen?
5. Distinguish between:
   a. 'Lay-off' and 'Lock-out'
   b. Strikes and Lockouts
6. Discuss the provisions relating to illegal strikes and lockouts.

*** ***** ***

UNIT 11: THE INDUSTRIAL DISPUTES ACT, 1947 (PART-B)

UNIT STRUCTURE

11.1 Learning Objectives

11.2 Introduction

11.3 History of the law of Industrial Disputes

11.4 Authorities under the Act and their Duties

11.5 Reference of Disputes

11.6 Procedure and Powers of Authorities

11.7 Award and Settlement

11.8 Let Us Sum Up

11.9 Further Reading

11.10 Answers To Check Your Progress

11.12 Model Questions

11.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- discuss th
- explain the history and importance of the Industrial Disputes Act, 1947
- explain about different authorities under the Act and their duties
- discuss about reference of disputes
- explain the procedure and powers of authorities
- describe about award and settlement

11.2 INTRODUCTION

The main purpose of the Industrial Disputes Act, 1947 is to ensure fair terms between employers and employees, workmen and workmen as well as workmen and employers. It helps not only in preventing disputes between employers and employees but also help in finding the measures to settle such disputes so that the production of the organization is not

hampered. In this unit, we are going to discuss the Industrial Disputes Act, 1947 and its importance. This unit encompasses the different authorities and their duties in the settlement of disputes. It also discuss about the reference of disputes. Through this unit, you will be able to know about the different award given by the different authorities under the Act. Thus, you will able to understand through this unit, the procedures of settlement of the disputes as well as the duties of different authorities as well as the way of reference of disputes.

11.3 HISTORY OF THE LAW OF INDUSTRIAL DISPUTES

The World War I (1914-1919) brought a new awakening among the working class people who were dominated by the employers regarding the terms and conditions of service and wages. The workers ***resorted*** to strikes to fulfill their demands and the employers retaliated by declaring lockouts. During the period 1928-29 the numerous strikes and lock-outs forced the Government to enact the Trade Disputes Act, 1929.



Resorted —

Have resource to.

The Trade Dispute Act, 1929 was introduced for the settlement of industrial disputes. This Trade Union Act gave the trade unions a legal status. The main object of the Act was to make provision for the establishment of Courts of Enquiry and Boards of Conciliation with a view to investigating and settling trade disputes. But, this Act failed to create favorable atmosphere in the industry and settle the disputes. The main defect of the Act was that no provision was has been made to render the proceedings institutable under the Act while restraint had been imposed on the right of strike and lock-out in the public utility services. But, later this defect was overcome by empowering under Rule 81-A, of the Defense of Indian Rules to refer industrial disputes to adjudicator for settlement during the Second World War (1938-1945). The rule provide speedy remedies for industrial disputes by compulsory reference of disputes to conciliation or adjudication, by making the awards of adjudicators legally binding on the parties, by prohibiting strikes and lock-outs during the pendency of conciliation or arbitration proceeding.



Adjudicator —

A person who studies and settles conflict

With the termination of the Second World War, Rule 81-A was about to lapse on 1st October, 1946, but it was kept alive by recourse to Government's Emergency Powers. The main provision was retained in the Industrial Disputes Act, 1947.



CHECK YOUR PROGRESS

Q.1. What was the main defect of the Trade Dispute Act, 1929?

.....

.....

.....

11.4 AUTHORITIES UNDER THE ACT AND THEIR DUTIES

The Industrial Dispute Act, 1947 makes provision for the investigation and settlement of disputes that may hamper the peace of the industry. It ensures harmony and cordial relationship between the employers and employees. The Act provides self-contained code to compel the parties to resort to industrial arbitration for the resolution of disputes. It also provides statutory norms besides helping in the maintaining of cordial relation among the employers and employees ,reflecting socio-economic justice.

The act provides for the following authorities for Investigation and Settlement of industrial disputes:

- Works Committee
- Conciliation Officer
- Boards of Conciliation
- Court of Inquiry
- Labour Court
- Labour Tribunals
- National Tribunals

Let us discuss these authorities in detail:

- **WORKS COMMITTEE (Section 3) :** The works committee is a committee consisting of representatives of employers and workmen (section3). The works committee is a forum for explaining the difficulties of all the parties.The main objective of the works committee is to solve the problems arising in the day-to-day working of a concern and to secure industrial harmony. The function of the working committee is to ascertain the grievances of the employees and to arrive at some agreement. The committee is formed by general or special order by the appropriate Government in an industrial establishment in which 100 or more workmen are employed or have been employed on any day in the preceding 12 months. It consists of the representatives of employers and workmen engaged in the establishment.

  It shall be the duty of the working committee to promote measures for securing and preserving amity and good relations between the employers and workmen and, to that end, to comment upon matters of their common interest or concern and to endeavour to compose any material difference of opinion in respect of such matters and decision of the works committees are not binding.

- **CONCILIATION OFFICER (Section 4) :** For promoting and settlement of industrial disputes the appropriate Government may by notification in the Official Gazette, appoint such number of conciliation officer as it thinks fit. The main objective of appointing conciliation officer is to create congenial atmosphere within the industry and reconcile the disputes of the workers and the employers. He may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

  The duty of the conciliation officer is not judicial but administrative. He has to hold conciliation proceedings, investigate the disputes and do all such things as he thinks fit for the purpose of inducing the parties to arrive at a fair settlement of the disputes. The conciliation officer is entitled to enter an establishment to which the



Amity —

A state of friendship.

Endeavour —

A purposeful undertaking.

Congenial —

Suitable to your needs.

dispute relates, after reasonable notice and also to call for and inspect any document which he consider relevant. He has to send a report and memorandum of settlement to appropriate Government. The report by the conciliation officer has to be submitted within 14 days of the commencement of the conciliation proceeding or shorter period as may be prescribed by the appropriate Government. The conciliation officer has the power to enter the premises as well can call for and inspect documents.

- **BOARDS OF CONCILIATION (Section 5) :** The appropriate Government may by notification in the Official Gazette, constitute a Board of Conciliation for the settlement of industrial disputes. The Board shall consist of a chairman and 2 or 4 other members in equal numbers representing the parties to the disputes as the appropriate Government thinks fit. The Chairman shall be an independent person. A person is "independent" for the purpose of appointment to a Board, Court or Tribunal if he is uncommitted with the dispute or with any industry directly affected by such dispute. He may be a shareholder of a company connected with or likely to be affected by such disputes. But in such a case he must disclose to the Government the nature and intent of his share [Section 2(i)]. Where the appropriate Government is of the opinion that any industrial disputes exist in an industry, it may refer by order in writing to the Board of Conciliation for settling industrial disputes.

  The Board of Conciliation has to bring about a settlement of the dispute. He has to send a report and memorandum of settlement to appropriate Government. He has to send a full report to the Appropriate Government setting for the steps taken by the Board in case no settlement is arrived at. The Board of Conciliation has to communicate the reasons to the parties if no further reference is made. The Board has to submit its report within 2 months of the date on which the dispute was referred to it within the period what the appropriate Government may think fit. The report of the Board shall be in writing and shall be signed by all the members of the Board.

- **COURT OF INQUIRY (Section 6) :** The appropriate Government may by notification in the Official Gazette, constitute a court of inquiry into any matter appearing to be connected with or relevant to settlement of industrial disputes having an independent person or of such independent persons as the appropriate Government may think fit. The court consists of two or more members one of whom shall be appointed by the Chairman. Within a period of 6 months, the court has to send a report thereon to the appropriate Government from the commencement of its any inquiry. This period is not mandatory and it may be extend.

  It has the same powers as are vested in a Civil Court under the Code of Civil Procedure 1908, in the following matters—

  - a.enforcing the attendance of any person and examining him on oath,
  - compelling the production of documents and material objects,
  - issuing commissions for the examination of witnesses,
  - in respect of such other matters as may be prescribed.

  The report of the Court must be signed by all the members. A member can submit a note of dissent. The Report together with the dissenting note must be published by the appropriate Government within 30 days from its report. A court of enquiry has no power to improve any settlement upon the parties.



Dissent —

A difference of opinion

- **LABOUR COURT (Section 7) :** The appropriate Government may by notification in the Official Gazette, constitute one or more labour court for adjudication of industrial disputes relating to any matters specified in the Second Schedule. A labour court consists of one person only to be appointed by the appropriate Government.

  The main function of the labour court is to hold its proceedings expeditiously and submit its award as the proceeding concludes. A person shall be presiding officer of a labour court unless—

  - he is or has been, a Judge of the High court,
  - he has for a period of not less than three years, been a District Judge or an Additional District Judge or



Expeditious —

Characterized by speed and efficiency.

- he has held any judicial office in India for not less than seven years; or
- he has been the presiding officer of a Labour Court constituted under any provincial Act or State Act for not less than five years.
- He must be an " independent " person and must not have attained the age of 65 years.

- **LABOUR TRIBUNALS (Section 7- A) :** The appropriate Government may by notification in the Official Gazette, constitute one or more Industrial Tribunals for adjudication of industrial disputes. A Tribunal shall consist of one person to be appointed by the appropriate Government. The Appropriate Government may appoint two persons as assessors to advise the Tribunel. The person shall be not qualified unless—
  - he is, a Judge of the High court,
  - he has for a period of not less than three years, been a District Judge or an Additional District Judge.
  - The appropriate Government may, if it so thinks fit, may appoint two persons as assessors to advise the Tribunal in the proceeding before it.

  The functions of the Tribunals are very much like those of a body discharging judicial functions, although it is not a Court. Its power is different from that of a Civil Court. The proceedings before an Industrial Tribunal are quasi-judicial in nature with all the attributes of a Court of Justice. The Government is empowered under Section 7-A of the Act to constitute for a limited time which comes to an end automatically on the expiry of the said period for any particular case. The duties of Industrial Tribunal are identical with the duties of Labour Court, i.e. on reference of any industrial disputes; the Tribunal shall hold its proceedings expeditiously and submit its award to the appropriate Government.
- **NATIONAL TRIBUNALS (Section 7 B) :** The Central Government may, by notification in the Official Gazette, constitute one or more

National Industrial Tribunals for the adjudication of industrial disputes. National Industrial Tribunals are involve only incase of the questions of national importance or if they are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such industrial disputes. It consists of one person only to be appointed by the Central Government.The person shall not be qualified for appointment as the presiding officer unless he is, or has been, a Judge of a High Court. Beside these, the Central Government may, if it thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceedings before it.



CHECK YOUR PROGRESS

Q2. Mention the authorities for Investigation and Settlement of industrial disputes under the Industrial Dispute Act, 1947?

i.) .....

ii) .....

iii) .....

iv) .....

v).....

vi) .....

vii) .....

vii).....

11.5 REFERENCE OF DISPUTES

Any industrial disputes should have to referred by the Appropriate Government under section 10 for adjudication, to the Conciliation Board, Labour Court, Court of Inquiry or Industrial Tribunal or National Tribunal.

- **Reference of disputes to various Authorities:**

  A matter is referred to the Conciliation Board for promoting the settlement of the disputes. The Conciliation Board is to promote

settlement and not to adjudicate.

But if the purpose of reference of the matter is investigatory instead of conciliatory or adjudicatory, it should be referred to Court of Inquiry. Again, if the matter is related to the Second Schedule or Third Schedule, it is referred to the Labour court. On the other hand, any matter of the industrial disputes which may relate to the Second Schedule or Third Schedule may refer to the Industrial Tribunal.

Where the disputes relate to a public utility service and a notice of the same is given, it becomes mandatory of the Appropriate Government or the Central Government to refer the matter for adjudication. But the power of the Appropriate Government to make a reference is discretionary and it is open to judicial review.

- **Reference of disputes to National Tribunal involving question of importance, etc :**

  When industrial disputes are of national importance or they are likely to be affect the industrial establishments situated in more than one State then they are referred to the National Tribunal by the Appropriate Government for adjudication. Again if any matter referred to National Tribunal is pending in a proceeding before a Labour Court or Tribunal, the proceeding before Labour Court or Tribunal becomes invalid. On the other hand, it is not lawful to refer any matters which are under adjudication before the National Tribunal to Labour Court or Tribunal.

- **Reference on application of parities :**

  If a person individually or jointly applies any matter in a prescribed manner to the Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal for adjudication and the Appropriate Government on being satisfied on the same specifies such time limit as it these proper to submit the award.

- **Time limit for submission of awards :**

  Section 10 (2A) of the Act specifies the time period for submitting award by the Appropriate Government, when any reference is made

to the Labour Court, Industrial Tribunal or National Tribunal for adjudication.

- **RVOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION :**

  The settlement of industrial disputes may be done through voluntary reference under section 10-A.

  - When an industrial dispute is not referred to Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal for adjudication, the employer and the workmen through a written agreement forward the matter for arbitration specifying the names of the arbitrator.
  - The arbitration agreement should be made in prescribed form and should be signed by the parties.
  - Within one month from the receipt of the arbitration agreement which should be forwarded to Appropriate Government and the Conciliation Officer, a copy of the same has to be published in the Official Gazette.
  - The arbitrator or arbitrators shall have to investigate the disputes and submit to the Appropriate Government the award.
  - The award should be signed by the arbitrator or the arbitrators.
  - The strike or lock-out in connection with the disputes should be prohibited by an order of the Appropriate Government.

11.6 PROCEDURE AND POWERS OF AUTHORITIES

Section 11 provides that every Conciliation Officer or member of a Board or Court or Presiding Officer of a Labour Court, Industrial Tribunal or National Tribunal after giving notice can enter the premises occupied by any establishment to which the disputes relate and follow such procedure as the arbitrator or other authority concerned may think fit. They have the same power as are vested in the Civil Court under the Code of Civil Procedure, 1908 while trying a suit in matters like,

- enforcing the attendance of any person and examining him on oath,
- compelling the production of documents and material objects,
- issuing commissions for the examination of witnesses,
- in respect of other such other matters as may be prescribed.

An assessor or assessors may be appointed by the Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal for advice having special knowledge on that matter. The Conciliation Officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect the documents. The Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal has the full power to determine to what extent, by whom and subject to what conditions costs are to be paid.

Thus, it is seen that section 11 (1) has given wide power to the Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal in the settlement of industrial disputes.

11.7 AWARD AND SETTLEMENT

Award means an interim or a final determination of any industrial disputes or of any question relating thereto by any Labour Court, Tribunal or National Tribunal and includes an arbitration award made under section 10A Section 2 (b).The report of the Board of Conciliation or the Court of Inquiry shall be in writing and shall be signed by all the members and the award of a Labour Court and Industrial Tribunal shall be in writing and shall be signed by the Presiding Officer. Section 21 requires certain matters to be kept confidential and it is further provided by the section that certain matters are not disclosed without the written consent of the secretary of the trade union or firm or company in question as the case may be of any information obtained by Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal. An award usually is enforceable on the expiry of 30 days from the date of its publication except when the Appropriate Government declares that the

award given by the Labour Court and Industrial Tribunal shall not be enforceable on the expiry of 30 days from the date of its publication. Again, it may not be enforceable on the expiry of 30 days from the date of its publication, if the Central Government get the opinion regarding the award given by the National Tribunal. In such case, the Appropriate Government or the Central Government may within 90 days from the date of publication of the award under section 17 make an order rejecting or modifying the award. But, if it appears that the award given by the Industrial Tribunal is fair and just, it is authorised to issue direction that the award takes effect retrospectively.

Persons on whom settlements and awards are binding (Section 18) :

- Settlement and awards are binding on all the parties under the agreement arrived at between the employers and workers in the course of conciliation proceedings.
- An arbitration award is binding on the concerned parties of the agreement who referred the disputes to arbitration.
- An arbitration award or settlement award or award of Labour Court, and Industrial Tribunal or National Tribunal is binding on—
  - All the parties to the disputes,
  - On all other parties who are summoned to appear in the proceeding as parties to the disputes, unless the Board, Arbitrator, Labour Court, Industrial Tribunal or National Tribunal in the settlement of industrial disputes as the case may be, records the opinion that they were so summoned without proper cause.
  - Where a party referred to Clause (a) and Clause (b) is an employer, his heirs, successors assigned in respect of the establishment to which the dispute relates.
  - But if the parties referred to in Clause (a) or Clause (b) is of workmen, all person who were employed in the establishment or part of the establishment, as the case may be, to which the disputes relates on the date of the dispute and all persons

who subsequently become employed in that establishment or part.

A settlement arrived at in the course of conciliation proceedings before a Conciliation Officer shall come into operation on such date as is agreed upon by the parties to the disputes and on the date on which the memorandum of the settlement is signed by the parties to the disputes when no date is agreed. But, if a person breaches any term of any settlement or award which is binding on him he shall be punishable with imprisonment for a term which may extend to 6 months or with fine or both.



11.8 LET US SUM UP

In this unit, we have discussed the following issues :

- The Industrial Disputes Act, 1947 makes provision for the investigation and settlement of disputes through Conciliation Officer or member of a Board or Court or Presiding Officer of a Labour Court, Industrial Tribunal or National Tribunal.
- Any industrial disputes may be referred by the Appropriate Government under section 10 for adjudication, to the Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal.
- The settlement of industrial disputes may be done through voluntary reference under section 10-A
- The conciliation officer or a member of a Board or Court or the Presiding Officer of a Labour Court, Industrial Tribunal or National Tribunal has the same power as are vested in the Civil Court under the Code of Civil Procedure, 1908.



11.9 FURTHER READING

1) *The Industrial Disputes Act, 1947*; (Bare Act)

2) *Industrial Law*, by P. L. Malik

3) *Handbook of Industrial Law*, by N. D. Kapoor

4) *Industrial Employment (Standing Orders) Act, 1946*; (Bare Act)



11.10 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No.1 : The main defect of the Trade Dispute Act, 1929 was that no provision has been made to render the proceedings institutable under the Act while restraints have been imposed on the right of strike and lock-out in the public utility services

Ans to Q No.2 : The authorities for Investigation and Settlement of industrial disputes under the Industrial Dispute Act, 1947 are—

i) Works Committee
ii) Conciliation Officer
iii) Boards of Conciliation
iv) Court of Inquiry
v) Labour Court
vi) Labour Tribunals
vii) National Tribunals



11.11 MODEL QUESTIONS

A) Short Questions (Answer each question in about 150 words)

Q 1: What authorities have been set up under the Industrial Dispute Act, 1947 for investigation and settlement of industrial disputes?

Q 2: Write short notes on—

a. Works Committee b. Conciliation Officer

c. Boards of Conciliation d. Court of Inquiry

e. Labour Court f. Labour Tribunals

g. National Tribunals

Q 3: Under what circumstances does an award made under the Industrial Dispute Act, 1947 commence to be enforceable?

Q 4: Discuss the provisions of Industrial Dispute Act, 1947 relating to the voluntary reference of disputes to arbitration.

Q 5: Mention the persons on whom settlements and awards are binding under the Industrial Dispute Act, 1947.

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UNIT 12 : LABOUR LEGISLATION : AN INTRODUCTION

UNIT STRUCTURE

12.1 Learning Objectives

12.2 Introduction

12.3 Labour Legislation -Its Background

12.4 Labour Legislation in the Pre-Independence Period

12.5 Labour Legislation in the Post Independance Period

12.6 International Labour Organisation- (ILO)

- 12.6.1 Structure of ILO
- 12.6.2 Objectives of ILO
- 12.6.3 Principles of ILO

12.7 Let Us Sum Up

12.8 Answer to Check Your Progress

12.9 Further Reading

12.10 Model Questions

12.1 LEARNING OBJECTIVES

After going through this unit you will be able to -

- explain the background and development of labour legislation
- describe the ILO and its structure, objectives and Principles.

12.2 INTRODUCTION

In this unit, we will discuss the genesis of labour legislation. During the twentieth century a new branch of jurisproduce known as Industrial juris produce has developed in our country. The growth of industrial jurisproduce can significantly be noticed not only from increase in labour and industrial legislation but also from a large number of industrial law matters decided by the Supreme Court and High Courts. It effects directly a considerable population of our country consisting of industrialists, workmen and their families. The workers are affected by the different oppressive

acts that they preferred to quit their jobs. They demand for their regular payment of wages, weekly holidays etc.Thus , those who are affected indirectly constitute bulk of the country's population. This branch of law modified the traditional law relating to master and servant and cut down the old theory of leisure fair which was based upon the 'freedom of contract ' in the larger interest of the society because that theory was found warming for the development of harmonious and amicable relations between the employers and employees. Through this unit you can understand the genesis of labour legislations along with the various aspects of labour legislations.

12.3 LABOUR LEGISLATIONS - ITS BACKGROUND

Industrial relations play a vital role in establishing and maintaining industrial democracy. The industrial relations have passed through several stages in India. Social, economic, and political are the various factors influenced industrial relations in India. Labour Statistics in India comes from the first national population census which was conducted in 1872 and it explains the number of gainfully employed. Until the Second World War, data related to employment of labour collected. The Royal Commission on Labour in 1931 pointed out the need for systematic collection of labour statistics and recommended the adoption of suitable legislation regarding the different conditions of industrial labour. The result was the enactment of Industrial Statistics Act in 1942. It helps in collection of statistics on matters relating to factories and certain specified areas of welfare and conditions of labour. Thus, different important Acts such as the Workmen's Compensation Act, 1923, the Trade Unions Act, 1926, the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Employee's State Insurance Act, 1948, the Factories Act, 1948 etc made. The labour legislation modified the traditional law relating to master and servant and had cut down the old theory of Leisure fare. The workers and employers are two important pillars of our economy. Proper regulation of employer-employee relationship is a condition precedent for planned and purposeful development of society. Many changes took place. Individual contracts have been in many respects substituted by a standard form of statutory contract through

legislation and judicial interpretation. The traditional right of an employer to hire and fire his workmen at his will has been subjected to many restraints. Industrial Tribunals can by their award make a contract which is binding on both the parties creating new right and imposing new obligations arising out of the award. The right of labour participation in the management has been given legislative recognition to the utter despair of the capitalist. The Industrial society all over the world has been moving during the present century from contract to status and is a politico-socio-economic juristic state. Actually, industrialisation is the main factor that leads to this departure from the old theories of the law of contract and the law of master and servant. Those who control the industry have a natural tendency of multiplying their wealth and if this tendency is not controlled and checked properly the rich grows on richer and the poor becomes poorer day by day. The gap between the rich and the poor ultimately grows on to this extent that it develops into two distinct classes in any industrial society. The realization that the workmen could put a better fight if they get united was closely followed by a period of Industrial unrest leading to strikes and lockouts. In conditions so disturbed the world has witnesses the horrors of the two world wars resulting in spiral rise in the cost of living there has been consistent document from labour for in crease in wages - Democratic ideas have also growth simultaneously with the growth of industrialisation in our country. These democratic ideas have pleased for and have also helped in mass awakening and consciousness for greater power amongst the working class. Out of the struggle between workers, demanding for better share in the production and profit of the Industry and the employers' hesitation to part with it beyond a certain limit, have grown the recognition of certain principles which are coincided to be fundamental in almost all developed countries of the world. The concept of Industrial jurisprudence in our country developed only after independence. Until independence the charge in attitude of the Government and the benevolent labour legislation only aimed at amelioration of the conditions of labour and it could hardly be said to be a deal in social justice to the working class. The birth of industrial jurisprudence in our country may be ascribed to the constitution of India,

12.4 LABOUR LEGISLATION IN THE PRE-INDEPEN DENCE PERIOD

During pre-independence period, workers were hired and fired as the principal of demand and supply governed industrial relations. The employer was in a commanding position, and the conditions of employment and wages were very poor. When these conditions continued despite the efforts of leaders, it paved the way for revolutionary movements. Even after the end of the first world war, the trade union movement had not emerged. There were hardly any laws to protect the interests of worker except the Employers and Workers (Disputes). Act 1860, which was used to settle wage disputes. After the first world war, the Industrial relations concept assumed a new dimension in the sense that workers now resorted to violence and employers to lockouts. There were numerous strikes and to violence and employers to lockouts. There were nummerous strickes and lockouts took place and it create disturbance during 1928-29.

As a result, the government enacted the Trade Disputes Act, 1929, to enhance the early settlement of industrial disputes. This was based on the British Industrial courts (BIC) Act, 1919. The Trade Disputes Act, 1929 differed from the BIC Act in that it did not provide for any standing machinery for the settlement of disputes. However, it was found that neither the Central Government nor the State Governments made adequate use of this law. In 1938, in order to meet the acute industrial unrest prevailing then the Bombay government enacted the Bombay Industrial Relations (BIR) Act, for that first time a permanent machinery, called the Industrial Court . It was established for settling disputes. This was replaced by the BIR Act, 1946, which was amended in 1948, 1949, 1953 and 1956. Soon after the second world war, India faced, many problems, such as rise in the cost of living, scarsity of essential commodities, high population growth rates, massive unemployment increasingly frudulent industrial relations situation etc.

12.5 LABOUR LEGISLATIONS IN THE POST INDE PENDENCE PERIOD

After independence, one of the significant steps taken in the field of industrial relations was the enactment of the Industrial Disputes Act, 1947, which not only provides for the establishment of permanent machinery for the settlement of Industrial disputes but also makes these awards binding and legally enforceable. Besides the Industrial Disputes Act in December 1947, an Industrial Conference was held in India, where an appeal was made to labour and management in the form of an industrial True Resolution to maintain industrial harmonay.

After independence, the growth of labour legislations can be classified as follows -

- **1947**
  - Enactment of Industrial Disputes Act 1947 along with permanent machinery to Settle industrial disputes.
  - Industrial Trace Resolution was made . It made an appeal to labour and management to cooperate and maintain industrial pence (1947)
- **1947-56**
  - Indian Labour Conferrence (ILC) was formed in lines with similar body of ILO where representatives of government employees and workers met regularly and made recommendation of legislative measures. This is a Tripartite body.
  - A large number of legislative measures have been enacted by Indian Parliament mostly based on the recommendation from ILC as given above.
- **1957 - 65**
  - In 1957, the IR emphasis shifted from “legalism” to “Voluntarism”. In this period instead of attempting to enact more labour laws and legislation, the ILO wanted toward achieving voliontary agreement between labour and management. Examples are “Code of Discipline” JMC, etc.

- Code of Discipline was introduced (1957)
- Joint Management Councils (JMC)
- Works committee

- **1962-71**
  - Political and social turmoil during this period created ripples in IR in India. Major events are chinese aggression (1962), death of Pandit Jawaharlal Nehru (1964), India Pakistan war (1965,1971), split of Indian National Congress (1969).
  - National commission for labour (NCL) was appointed in 1966 . It finalises its reccommendations by 1969. Some of the recommendations of NCL were processed by ILC and policy decisions taken viz recognition of bargaining agent, formation of Industrial Relations Commissions instead of Tribunals etc. However, subsequently, the Governments did not implement these recommendations.
- **1972 - 76 :**
  - Considerable Industrial unrest during this period.
  - National emergency was declared in June 1975 and fundamental rights were curbed.
  - ILC did not meet from 1972 to 1976.
  - Set up National Apex Body (NAB) and State Apex Body (SAB) instead of NLC, based on 20 point programme. NAB and SAB were bipartite bodies represending employees and employers.
- **1977-80**
  - Emergency was repealed in 1977 and Janata Government took over Central Government for the first time from Congress Party.
  - NLC was revived in 1977.
  - Period of reconciliation followed.
  - Draft L.R. Bill 1978 was prepared. This however, was not yet enacted.
- **Post 1980's**
  - Militancy of trade Unionism showed its ugly head in 1980-81 where series of murder and assault of labour leaders (President

of HMS) and CEO's (MD of Bombay Tyres) took place.

- More than 70,000 unresolved industrial disputes were lying with - Government and high rate of price rise and unemployment added to the causes of industrial unrest.
- To combat the situation Government enacted Essential Services Maintenance Act (ESMA) in 1981.



LET US KNOW

Since Independence till 1954, the period when V.V. Giri was the labour Minister, all official pronouncements emphasised that labour should become self-reliant. An equally forceful new had been to prefer reliance upon the Government. This cross current of approach to the labour policy gave mark to anew approach known as Tripartism.



CHEEK YOUR PROGRESS

A. Fill up the blanks :

i) The Employers and Workers (Disputes) Act 1860 which was used to settle ..... disputes.

ii) The Government enacted the trade disputes Act in the year .....

iii) Trade Disputes Act was based on the ..... Industrial Court Act, 1919.

iv) In the year 1938 , in order to meet the acute industrial unrest prevailing then the Bombay Govt. Enacted the .... Act.

v) Essential Services Maintenanc Act, (ESMA) was enacted in the year .....

12.6 INTERNATIONAL LABOUR ORGANISATION (ILO)

The International Labour Organisation was set up on April 19, 1919 as a result of the peace conference convened at the end of World War I at Versailles. The ILO is an international organisation, a new social experimental institution trying to make the world conscious that world peace may be affected by the unjust conditions of its working population. The unique feature of the ILO is that the representation of management, labour and government participate in its proceedings. When in the year 1946 the United Nations Organisation came into being, the ILO become the first specialist agency of the organisation. ILO is like other intergovernmental agencies such as the FAO or WHO working for the universal cause but deffering from them in one aspect, namely in its tripartite structure. Representation at all the proceedings of ILO is given to workers and employers besides governmental agencies.

12.6.1 Structure of ILO

Organisational structure of ILO consists of 3 bodies or subsystems. Such as

- An International Labour Conference
- A Governing body and
- An International Labour office
- An International Labour Conference : It is the Apex level body of ILO, which makes policies, rules and regulations. The conference comprises of three groups representing governments, employers and workers in the ratio of 2: 1: 1. Conference sessions are held at a frequency not less than once in a year. The Government delegates to the ILC are mostly ministers, diplomats or officials subjects to government instructions. Under the constitutions of the ILO employere and workers delegates are nominated by the Governments in agreement with the relevant industrial organisations.

Following are the functions of ILC

- Formulate International Labour standards
- Fixes amount of contribution by member-states.
- Pass budgets and expenditure.
- Amendments of constitution by $^{2}/_{3}$ majority.
- Studies labour problems submitted by Director General and discuss and finds solution.
- Appoint committee on 'as required basis' to study problems indepth.
- Develop policies and procedure.
- Select members to Governing body once in every three years.
- Elects its own President.
- Seek advisory opinion from international committee of justice.
- Confirms the powers, functions and procedures of regional conferences.

● **The Governing Body :**

The Governing Body is another principal bodies of the ILO. The Governing Body is a non-political, non-legislative, tripartite body. With the help of the International Labour office, it carries out the decisions of the conferences. It consists of 56 members of which 28 represent government contingent, 10 are appointed by the members of the States of Chief Industrial Importance and the balance are delegates of other governments.

Following are the functions of Governing body -

- Co ordinate work between ILC and International Labour office.
- Prepare agenda for each ILC
- Appoint Director General of the office.
- Scrutinise the budget.
- Follow up with the member states in regard to implementation of recommendation made by ILC
- Fixes date, schedule, and agenda for Regional Conferences.

● **An International Labour office :**

This is the third major body in the ILO System. It functions as the Secretariat of the ILO in Geneva. The Directors General of the ILO is the Chief Executive of this office. Director General is

appointed by Governing Body. He also acts as Secretary General of ILC. He is appointed for 10 years and his Term may be extended by the Governing Body. Following are the functions of this office -

- To prepare documents on the items of the agenda of the conference.
- To assist governments in framing legislation on the basis of the decisions of the ILC.
- To carry out its function in connection with the observance
- To bring but publications dealing with Industrial labour problems of international interest.
- To collect and distribute information of international labour and social problems.

12.6.2 Objectives of ILO

The main objective of ILO is improvement of labour conditions. Objectives of ILO are contained in the following three documents. Such as -

- Preamble to its constitution
- Article 427 of Peace Treaty of Versailles - 1919.
- Philadelphia Declaration of 1944

In the Preamble to its constitution supplemented by Article 427 of the peace treaty of versailles, 1919. The basic objectives of ILO are as follows -

- Provide social justice to workers.
- Avoid injustice, depreciation and exploitation of labour.
- Build up good working condition to the labour.
- World peace is possible when the above three conditions are met.

The objective of ILO was also revised in Philadelphia conference in 1944. As a result of which following 10 objectives of ILO were developed.

- Full employment and raising living standard of workers.
- Employ workers on jobs for which they have adequate skill

and satisfaction to work.

- Provide training and development facilities to achieve the above objective.
- Provide a fair share of profit as compensation sufficient for minimum living wage and give protection.
- Recognise "collective bargaiering" not only as a right of workers but also as a means of improving productive efficiency in a spirit of cooperation between management and employees.
- Extend social security and medical cover.
- Protect life and health and medical cover.
- Child welfare and maternity protection.
- Provide adequate metrition, housing and recreation facilities.
- Provide quality education and vocational opportunity.

12.6.3 Principles of ILO

The Philadelphia conference held in 1944 has laid down the following principles for ILO:

- Labour is not a commodity
- Freedom of expression and association are essential
- Poverty is a threat to prosperity.
- Fight was against want by joint efforts by Government, management and workers together on equal states and with democratic traditions.

LET US KNOW



The constitution of the ILO provides simple rules of procedures regarding admission of a state to the membership of the ILO. It provides that all those states, who were members of the ILO on 1st November, 1945 and any original member of the UN can become member of the ILO by accepting the obligations of its constitution. Other states can also become members of the ILO by a vote concurred by $^{2}/_{3}$ of the delegates attending the sension including $^{2}/_{3}$ of the government delegates present and voting.



CHECK YOUR PROGRESS

A. Match the both sides

i) Establishment of ILO	i) 1946 (iii)
ii) Peace Conference at the end of World War I	ii) 3 (iv)
iii) United Nation Organisation	iii) Governing body (v)
iv) Nos. of bodies of ILO	iv) April 19, 1919 (i)
v) Non-political Tripatite	v) At Versailles (ii)



12.7 LET US SUM UP

- The labour legislation modified the traditional law relating to master and servant and had cut down the old theory of Laissez faire based upon the “freedom of control” in the larger interest of the society because that theory was found wanting for the development of harmonious and amicable relations between the employers and employees.
- During pre-independence period workers were hired and fired as the principles of demand and supply governed industrial relations.
- The Government of India enacted the Trade Disputes Act 1929 to enhance the early settlement of industrial disputes.
- After independence one of the significant steps taken in the field of Industrial Disputes Act, 1947, which not only provides for the establishment of permanent machinery for the settlement of industrial disputes but also makes awards which are binding and legally enforceable. After independence, growth of labour legislations was made as result of enactment of several labour legislations.



12.8 FURTHER READING

1) Personnel Management and Industrial Relations, By N.G. Nair and Latha Nair..
2) Industrial relations, By Arun Monappa.
3) Labour & Industrial Laws, By S.N. Mirsra.



12.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: i) Wage ii) 1929 iii) British
iv) Bombay Industrial Relation v) 1981

Ans to Q No 2: i) _____ iv), iv) _____ ii)
ii) _____ v) v) _____ iii)
iii) _____ i)



12.10 MODEL QUESTIONS

Q 1: Briefly write about the background of labour legislation.

Q 2: Discuss the growth of labour legislation pre-independence as well as post independence of India.

Q 3: Explain the structure of International Labour Organisation.

Q 4: What are the various objectives of ILO.

Q 5: Mention the principle of ILO.

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UNIT 13: MINIMUM WAGES ACT, 1948

UNIT STRUCTURE

13.1 Learning Objectives

13.2 Introduction

13.3 Object and scope of the Act

13.4 Definitions under the Act

13.5 Fixation and Revision of Wages (Sec 3 to 5)

13.6 Safeguards in payment of Minimum Wages (Sec 11 to 18)

13.7 Enforcement of the Act (Sec 18 to 20)

13.8 Let Us Sum Up

13.9 Further Readings

13.10 Answers To Check Your Progress

13.11 Possible Questions

13.1 LEARNING OBJECTIVES

After going through this unit, you will be able to :

- explain the scope and the objects of “Minimum Wages Act, 1948”
- describe the different definition under the Act
- discuss the different provisions of fixation and revision of wages
- outline the different provisions to safeguard in payment of minimum wages
- discuss the different provisions of enforcement of the Act

13.2 INTRODUCTION

In this unit we are going to discuss on “Minimum wages Act 1948”.According to the Act, it enables the Central and State Government to fix minimum rates of wages payable to employees in a selected number of ‘sweated’ industries. There are certain provisions under the Act. You will get a fair idea on the important provisions of the Act while going through this unit.

13.3 OBJECT AND SCOPE OF THE ACT

The main objective of this Act, is fixing a minimum rate of wages in number of industries where the labours are not organized and sweated labours are most dominant.

The Act aims at preventing the exploitation of workers or labours in some industries, for which, the appropriate Government is empowered to take steps to prescribe minimum rates of wages in certain employment.

The Minimum Wages Fixing Machinery convention was held at Geneva in the year 1928 by ILO with reference to remuneration of workers in those industries where the, level of wages was substantially low and the labour was vulnerable to exploitation, being not well organised and having less effective bargaining power.

This Act may be called the Minimum Wages Act 1948.The Act enables the Central and State Government to fix minimum rates of wages payable to employees in selected number of 'sweated' industries. The Act extends to the whole of India.

13.4 DEFINITIONS UNDER THE ACT

Following are some of the definitions and sections under the Act:

- **Adolescent [2. (a)]:** "adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year.
- **Adult [2. (aa)]:** "adult" means a person who has completed his eighteenth year of age.
- **Appropriate government [2. (b)]:** "appropriate government" means:
  - in relation to any scheduled employment carried on by or under the authority of the Central Government or a railway administration or in relation to a mine oil field or major port or any corporation established by a Central Act the Central Government and
  - in relation to any other scheduled employment of the State Government;

- **Child [2. (bb)] :** "child" means a person who has not completed his fourteenth year of age.
- **Competent authority [2. (c)] :** "competent authority" means the authority appointed by the appropriate government by notification in its Official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification.
- **Cost of living index number [2. (d)] :** "cost of living index number" in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed means the index number ascertained and declared by the competent authority by notification in the Official Gazette to be the cost of living index number applicable to employee in such employment.
- **Employer [2. (e)] :** "employer" means any person who employs whether directly or through another person or whether on behalf of himself or any other person one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act and includes except in sub-section (3) of section 26:
  - in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act any person named under clause (f) of sub-section (1) of section 7 of the Factories Act 1948 (63 of 1948) as manager of the factory;
  - in any scheduled employment under the control of any government in India in respect of which minimum rates of wages have been fixed under this Act the person or authority appointed by such government for the supervision and control of employees or where no person or authority is so appointed as the head of the department;
  - in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act the persons appointed by such authority for

the supervision and control of employees or where no person is so appointed the chief executive officer of the local authority;

- in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act any person responsible to the owner for the supervision and control of the employees or for the payment of wages;

- **Prescribed [Sec.2 (f)]:** "prescribed" means prescribed by rules made under this Act.
- **Schedule employment [Sec.2 (f)]:** "schedule employment" means an employment specified in the Schedule or any process or branch of work forming part of such employment
- **Wages [Sec.2(h)] :** "wages" means all remuneration capable of being expressed in terms of money which would if the terms of be payable to a person employed in respect of his employment or of work done in such employment and includes house rent allowance but does not include:
  - the value of:
    - any house accommodation supply of light, water, medical attendance or
    - any other amenity or any service excluded by general or special order of the appropriate government;
  - any contribution paid by the employer to any personal fund or provident fund or under any scheme of social insurance;
  - any traveling allowance or the value of any traveling concession;
  - any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
  - any gratuity payable on discharge;
- **Employee [Sec.2 (i)]:** "employee" means any person who is employed for hire or reward to do any work skilled or unskilled

manual or clerical in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up cleaned washed altered ornamented finished repaired adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate government; but does not include any member of the Armed Forces of the Union.



CHECK YOUR PROGRESS : 1

Q.1. Fill in the blanks with appropriate words:

a. The Minimum Wages Fixing Machinery convention was held at …….. in the year …….. by ILO

b. “adolescent" means a person who has completed his ……. ……..of age but has not completed his eighteenth year

c. "child" means a person who has not completed his …… ……. year of age.

d. "……." means prescribed by rules made under this Act.

e. "wages" means all remuneration capable of being expressed in terms of ……..

13.5 FIXATION AND REVISION OF WAGES (Sec 3 to Sec 5)

The fixation and revision of wages falls under the Sec 3, Sec 4 and sec 5. Sec 3 deals with, the appropriate government fix the minimum wages that is payable to the employees in any scheduled employment. The sec 4 describes on the contents of minimum wages. Sec 5 is about

the procedure for fixing and revising the minimum rates of wages.

Minimum number of Employees. The appropriate government can for bear from fixing minimum rate of wages of any scheduled employment in which there are less than 1,000 employees in the organization. But if the appropriate government find after an inquiry that there are more than 1,000 employees in any scheduled employment, it shall fix the minimum rate of wages payable as soon as after the finding.

- **Fixing of minimum rates of wages (Sec. 3):** Under sec 3, the appropriate Government fix the minimum rate of wages .The appropriate government-
  - shall fix the minimum rate of wages payable to the employees employed in the employment specified in Part I or part II of the schedule(the schedule is reproduced at the end of the unit) and in an employment to either by notification in official Gazette.
  - the employees employed in the employment specified in Part II of the schedule, fix the minimum rate of wage for apart of the state or for any specified class, instead of fixing the minimum rate of wages for the whole state.
  - shall review the minimum rate of wages so fixed and revise the same , at such intervals not exceeding 5 years.
- **Minimum rates:** The Appropriate Government may fix:
  - minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");
  - minimum rate of wages for piece work (hereinafter referred to as "a minimum piece rate");
  - a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");
  - a minimum rate (whether time rate or piece rate) to apply in substitution for the minimum rate which would otherwise be

applicable in respect of overtime work done by employees (hereinafter referred to as "over time rate").

- ***Different minimum rates :*** The different minimum rates of wages may be fixed for-
  - different scheduled employments;
  - different classes of work in the scheduled employment;
  - adults, adolescents, children and apprentice;

- **Minimum Rate of Wages (Sec 4):** The appropriate governments fix or revise minimum rate of wages may consists of-
  - basic rate of wages and special allowance
  - a basic rate of wages with or with the cost of living allowance
  - an all inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions
- **Procedure for fixing and revising minimum wages (Sec 5):** There are two separate modes of procedure for fixing and revising minimum wages under sec 5. The main object of both the procedures is to enable the government to reach a balanced conclusion with regard to fixation of a minimum wage. The two modes are as follows:
  - ***Mode one:*** *Appointment of Committee:* The appropriate government should appoint as many committees or sub-committees as to hold necessary inquires for fixation of minimum rates of wages.
  - ***Mode two:*** *Publication of proposals in the official gazette:* The appropriate government shall by notification in the official Gazette, publish its proposals for the information of the person who is likely to be affected by the fixation of minimum rates of wages.

13.6 SAFEGUARDS IN PAYMENTS OF MINIMUM WAGES (Sec 11 to 18)

To safeguards the payments of minimum wages falls under the sec 11 to sec 18. The sections are as follows:

- **Wages in kind (sec 11) :** The minimum wages under the Act shall be paid in cash. But where it has been custom to pay wages wholly or partly in kind, the appropriate Government may, by notification in the official Gazette, authorize the payment of minimum wages either partly or wholly in kind.

  The cash value of wages in kind and of concessions in respect of supplies of any essential commodities at concessional rates shall be estimated in the prescribed manner.
- **Payment of minimum rate of wages (Sec 12):** In respect of any scheduled employment where minimum wages have been fixed, the employer shall pay each and every employee wages at a rate not less than the minimum rate of wages fixed for that class of employees. The wages shall be paid without any deductions except as prescribed.
- **Fixing hours for a normal working day, etc (Sec 13):** In respect of any scheduled employment where minimum wages have been fixed, the appropriate government may:
  - fix the numbers of hour of work which is the normal working day inclusive of one or more intervals;
  - provide a day of rest in every period of 7 days and for payment of remuneration in respect of such day of rest;
  - provide for payment for work on a day of rest at a rate not less than the overtime rate.
- **Rates of overtime (sec 14):** Where employee, whose minimum rate of wages is fixed under this Act, by the hour, by the day or by any longer wage-period as prescribed, works overtime, the employer shall pay him for every hour or for part of an hour so worked in excess, wages at the rates fixed for overtime work under the Act or under any law of the appropriate Government in force, whichever is higher.



LET US KNOW

The provisions of the minimum Wages Act, 1948 shall not prejudice the operation of the provision of sec. 59 of the Factories Act, 1948 in any case where those provisions are applicable. Sec .59 of the Factories Act, 1948 provides that, where a worker works in factory for more than 9 hours in any day or for more than 48 hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

- **Wages of worker who works for less than the normal working day (Sec 15):** Sometime it may happen that, any employee whose minimum rate of wages has been fixed by the day may work on any day on which he has employed the period less than the required number of hours constituting a normal working day. In that case he is entitled to receive wages for the work done by him on that day if he had worked on a full normal working day except:
  - if his failure of work is caused by his unwillingness to work and not by omission of the employer to provide him with work;
  - in such other cases and circumstances as may be prescribed.
- **Wages for 2 or more classes of work (Sec. 16):** Where an employee does 2 or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.
- **Minimum time rate wages for piece work (Sec. 17):** Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under the Act, the employer shall pay such employee wages at not less than the minimum time rate.
- **Maintenance of registers and records (Sec 18):** In an organization who falls under this Act shall maintain registers and records giving

the detail information of the employees, the work performed by them, the wages paid to them and such other particulars and in such form as may be prescribed.

13.7 ENFORCEMENT OF THE ACT (Sec 19 TO Sec 20)

The Appropriate Government can appoint by notification in the Official Gazette an inspector (section 19). The inspector within his local limit can

- enter at all reasonable hours, with such assistant (if any) or any local or other public authority ,as think fit any premises or place of premises where employees are employed or for the purpose of examining any register, record of wages or notices required to be kept;
- examine any person he find in such premises or depending on any reasonable causes believe is an employee or an employee who given out his work from therein;
- require any person giving out work or any out-workers to give any information, which in his power to give with respect to the names and addresses of the persons from or to whom the work is given out or received and with respect to the payment to be made for the work.
- seize or takes copies of the register, record of wages or notices in respect of any offence under the Act.
- exercise such other powers as may be prescribed.

Within the meaning of section 175 and 176 under Indian Penal Code, any document or information given by the inspector shall be deemed to be legally bound. The inspector shall be deemed to be a public servant within the meaning of Indian Penal Code.

The employee can claims for minimum wages (under section 20):

- The Appropriate Government may by notification in the Official Gazette, appoint –
  - any Commissioner for Workmen's Compensation, or

- any officer of the Central Government exercising functions as a Labour Commissioner for any region,
- any officer of the State Government not below the rank of the Labour Commissioner or, any other officer.

Such person should have an experience as a judge of a Civil Court or as a stipendiary Magistrate to hear or decide any claims arising out of the payment of less than the minimum rates of wages.

- Again for any claims of the employees under section 3, the employees himself or any legal practitioner or any official of a registered trade union or inspector can apply to such Authority and the application shall present to them within six month from the date on which the minimum wages became payable.
- After the necessary enquiry, the Authority shall hear the applicant and the employer and give them opportunity of being heard. If the wages is paid of less than the minimum rates of wages, than the Authority may asked to the employer to pay exceed the actual amount which has to pay in addition with compensation not exceeding ten times the amount of such excess for such act.

  In any other case, if the payment become due than the employee will get together with the payment of such compensation as the Authority may think fit not exceeding ten rupees.
- If under this section the Authority hearing any claim and found that it was either malicious or vexatious, it may direct penalty not exceeding fifty rupees to the employer by the person presenting the application.
- Under this section if any amount is directed to be paid than as if it were a fine imposed by the Authority as a Magistrate or if he is not Magistrate than to such person whom the Authority makes application in this behalf as if were a fine imposed by such Magistrate.
- Every direction is final under this section.
- Every Authority appointed shall have all powers of a Civil Court under the Code of Civil Procedure, 1908.



CHECK YOUR PROGRESS : 2

Q1. Fill in the blanks:

a. Under Section _____the appropriate government fix the minimum rate of Wages.

b. The two modes of procedure of fixing and reusing minimum wage are _____ and _____ .

c. Wages in kind falls under Section _____ .

d. Section 18 is about maintenancs of _____.

THE SCHEDULE

PART I

1. Employment in any woolen carpet making or shawl weaving establishment.
2. Employment in any rice mill, flour mill or *dal* mill.
3. Employment in any tobacoo (including *bidi* making) manufactory.
4. Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cinchona, rubber, tea or coffee.
5. Employment in any oil mill.
6. Employment under any local authority.

7. Employment on the construction or maintenance of roads or in building operations.
8. Employment in stone-breaking or stone-crushing.

Stone-breaking or stone-crushing as a scheduled employment means breaking or crushing of stones as incidental to the mining operation and in mines [*Madhya Pradesh Mineral Industry Assn.* v. *Regional Labour Commr.*, (1960) 1 L.L.J. 563]. Thus in matters of employment in stone-breaking or stone-crushing in relation to a mine, the appropriate Government is the Central Government, whereas in matters of employment in stone-breaking or stone-crushing otherwise than in relation to a mine, the appropriate Government is the State Government [*Bisra Lime Stone Co. Ltd.* v. *Central Labour Inspector*, A.I.R. (1969) Ori. 11].

9. Employment in any lac manufactory.
10. Employment in any mica works.
11. Employment in public motor transport.
12. Employment in tanneries and leather manufactory.
13. Employment in gypsum mines.
14. Employment in barytes mines.
15. Employment in bauxite mines.
16. Employment in manganese mines.
17. Employment in the maintenance of buildings and employment in the construction and maintenance of runways.
18. Employment in china clay mines.
19. Employment in kyanite mines.

19. Employment in kyanite mines.
20. Employment in copper mines.
21. Employment in clay mines covered under the Mines Act, 1952.
22. Employment in mangnesite mines covered under the Mines Act, 1952.
23. Employment in white clay mines.
24. Employment in stone mines.
25. Employment in steatite (including the mines producing soapstone and talc).
26. Employment in ochre mines.
27. Employment in asbestos mines.
28. Employment in fire clay mines.
29. Employment in chromite mines.
30. Employment in quartizite mines.
31. Employment in quartz mines.
32. Employment in silica mines.
33. Employment in graphite mines.
34. Employment in felspar mines.
35. Employment in laterite mines.
36. Employment in dolomite mines.
37. Employment in redoxide mines.
38. Employment in wolfram mines.
39. Employment in iron ore mines.
40. Employment in granite mines.
41. Employment in rock phosphate mines.
42. Employment in hematite mines.
43. Employment in loading and unloading in —
    (*i*) railways, goods sheds,
    (*ii*) docks and ports.
44. Employment in marble and calcite mines.

PART II

Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultiva- tion, growing and harvesting of any agricultural or horticultural commodity, the raising of live-stock, bees or poultry, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparations for market and delivery to storage or to market or to carriage for transportation to market of farm produce).



13.8 LET US SUM UP

- In this unit, we have discussed about Minimum Wages Act, 1948.
- The main objective of the Minimum Wages Act 1948, is fixing a minimum rate of wages in number of industries where the labours are not organized and sweated labours are most dominant. The appropriate government after an inquiry if find that there are more than 1,000 employees are working under any scheduled employment,

it shall fix the minimum rate of wages payable as soon as after such finding. The fixation and revision of wages falls under the Sec 3, Sec 4 and sec 5. The appropriate governments fix or revise minimum rate of wages which may consists of – i. basic rate of wages and special allowance; ii. basic rate of wages with or with the cost of living allowance; iii. an all inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions.



13.9 FURTHER READING

1) The Minimum Wages Act 1948; (Bare Act)
2) Industrial Law, by P. L. Malik
3) Handbook of Industrial Law, by N. D. Kapoor



13.10 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1:
a. Geneva, 1928
b. fourteenth year
c. fourteenth
d. "Prescribed"
e. money

Ans to Q No 1:
a. 3
b. Appointment of Committee and Publication of proposals in official gagette.
c. 11
d. Registers and records



13.1 MODEL QUESTIONS

A) Short Questions (Answer each question in about 150 words)

Q 1: Write short notes on:

a. Wages

b. Employer

c. Employee

Q 2: Who fix the minimum rate of wages under the Minimum Wages Act 1948?

Q 3: State the procedure for fixing and revising minimum wages.

Q 4: What authorities can be appointed to hear and decide the claims and arising under the Minimum Wages Act 1948?

*** ***** ***

UNIT 14 : THE PAYMENT OF WAGES ACT, 1936

UNIT STRUCTURE

14.1 Learning Objectives

14.2 Introduction

14.3 Definition of Wages

14.4 Few important terms under the Payment of Wages Act. 1936 and its objects and application

14.5 Responsibility for payment of wages

14.6 Time of Payment of Wages

14.7 Deduction and its various kinds

14.8 Claims for wrongful deductions

14.9 Let Us Sum Up

14.10 Further Readings

14.11 Answers To Check Your Progress

14.12 Model Questions

14.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- explain the meaning and various important terms under the Payment of Wages Act. 1936
- describe regarding the Responsibilities for Payment of Wages
- know the rules with regard to the time of Payment of wages
- define the meaning of deduction and its various kind along with claims for wrongful deduction.

14.2 INTRODUCTION

In this unit an attempt is being taken to discuss the Payment of Wages Act. 1936, and its objects, application and other important aspects. The payment of wages Act. 1936 has recently been amended in 2005 by the Payment of wages (Amendment) Act 2005. The wage structure of an Industrial enterprise is built on the premise that each job has its own

price depending on the skill and training. Moreover, it depends on commensurate responsibility, which is determined by systematic Job evaluation method or by 'going rate' in the particular market area. By the payment of wages Act 1936, the payment system, rate, deduction, etc. important aspects of wages of certain classes of employed persons are regulated. Through this unit, learners can understand all about the important legal matters of the Payment of wages Act. 1936.

14.3 DEFINITION OF WAGES

Under section 2 (vi) of the Payment of wages Act. 1936, the term wages is defined as all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable or implied were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment.

In order to understand the concept of wage, it is better to know the following items, which are included in wages. Such as–

- Any remuneration payable under any award or settlement between the parties or order of a court.
- Any remuneration to which the person employed is entitled in respect of overtime work on holidays or any leave period.
- Any additional remuneration payable under the terms of employment, whether called a bonus or by any other name.
- Any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument.
- Any sum to which the person employed is entitled under any scheme framed under any law for the time being in force.
- **Following are not included in wages**
  - Any bonus which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court.
  - The value of any house accommodation or of the supply of

light, water, medical attendance or other amenity or of any service excluded from the compilation of wages by a general or a special order of the State Government.

- Any contribution paid by the employer to any pension or provident fund and the interest that may have accrued thereof.
- Any travelling allowance or the value of any travelling concession.
- Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment or
- Any gratuity payable on the termination of employment in cases other than this specified in sub clause (d).

14.4 Few important terms under the payment of wages act and its objects and application

- **Appropriate Government :** According to section 2 (i) of the Act, the appropriate Government is the central Government in relation to railways, air transport service, mines and oil fields. On the other hand, in relation to all other cases, the appropriate government is the State Government.
- **Employed person :** According to section 2 (i)(a) the employed person includes the legal representative of a deceased employed person.
- **Employer :** According to section 2(i) (b) employer includes the legal representative of a deceased employer.
- **Factory :** According to section 2 (i)(c) of the Act. Factory means is defined in section 2(m) of the factories Act 1948 and includes any place to which the provisions of that Act have been applied under section 85 (1) thereof.
- **Industrial or other Establishment :**

  According to section 2(ii), Industrial or other establishment means any

- Tram way services or motor transport engaged in carrying passengers, goods or both by road for here or record.
- Air transport service other than such service belonging to or exclusively employed in the military, navy or air force of the Union or Civil Aviation Department of the Government of India.
- Dock, What of Jetty.
- Inland Vessel, mechanically propelled.
- Mine, quarry or oil field.
- Plantation.
- Workshop or other establishment in which articles are produced, adopted or manufactured with a view to their use, transport or sale.
- Establishment in which any work relating to the construction, development and maintenance of buildings, roads, bridge or canals or of water relating to the generation, transportation, and distribution of electricity or any other form of power is being carried on.

- **Mine :** The term 'mine' is defined in section 2 (ii) (a) of the Act and for the purpose of this Act it has the same meaning as assigned to it in section 2(1)(i) of the Mines Act 1952.
- **Plantation :** The term plantation is defined in section 2 (iii) of the Act for the purpose of this Act it has the same meaning as assigned to it in section 2(f) of the plantation labour Act. 1951
- **Railway Administration :** The term Railway Administration is defined in section 2 (v) of the Act and for the purposes of this Act it has the same meaning as assigned to it in section 2(32) of the Railways Act 1989.
- **Objectives and Application of the Act :**

  In the Preamble of the Payment of Wages Act 1936, the objectives are provided as to regulate the payment of wages of certain classes of employed persons. In this connection, the expression "Certain classes of employed persons' is important for the Act as the act

applies to employed persons drawing on an average wages less than Rs. 6,500/- per month (section 1 (6). With a view to achieving these objectives as well as ensuring the payment of wages to the persons covered by the Act. various provisions have been made in the Act.

Regarding application of the Payment of Wages Act 1936, section 1(4) provides that in the first instance, the Act applies to the payment of wages to the following–

- Persons employed in any factory.
- Persons employed (otherwise than in a factory upon any railway by a railway administration either directly or through a subcontractor) by a person fulfilling a contract with a railway administration.
- Persons employed in an Industrial or other establishment as specified in section 2(ii) (a) to 2(ii) (g).
- Any class of persons employed in any establishment or class of establishment specified by the appropriate government according to section 5.

The State Government may after giving three months notice, by notification in the Gazette, extend the provisions of the Act or any of them to the payment of wages of any class of persons employed in any Industrial Establishment or class on group of Industrial Establishments. In many states, the Act has been extended to various industries e.g. Shops and Establishments, Omnibus service (in Assam, Maharashra, West Bengal), tramways (in Tamil Nadu) etc.

LET US KNOW



i. The Payment of wages Act of 1936, was initially made applicable to people drawing less than Rs. 200 a month. In 1967, the limit was raised to Rs. 400 a month. On 13th November 1975, the President of India issued an Ordinance amending the Act to cover workers getting up to Rs 1000 a month. In 1976, the ordinance was replaced by

an Act, which was passed on 11th February. The effect of the Act was that nothing in this Act applied to wages payment in respect of a wage period, over such wage period, average Rs. 100 a month or more. This limit was raised from Rs. 1000 to Rs 1600 by the payment of wages (Amendment) Act 1982.

(ii) The Act of 1976 provided for the Payment of Wages in cash, by cheque or by crediting the wages to the bank account of a worker after obtaining his written authorisation.

(iii) It also permitted authorised deduction from wages for contribution to the Prime Minister's National Relief fund or such other funds as the central Government may specify by notification in the official Gazette.



CHECK YOUR PROGRESS : 1

1. Match the following :

(A) Appropriate Government – (i) Section 2 (ii)a

(b) Employed Person – (II) Section 2 (i)b

(c) Employer – (III) Section 2 (ii)

(d) Factory – (IV) Section 2 (i)c

(e) Industrial or other Establishment – (v) Section 2 (i)

(f) Mine – (VI) Section 2 (i)a

(g) Plantation – (VII) Section 2 (v)

(h) Railway Administration – (VIII) Section 2 (iv)



ACTIVITY

(i) Prepare a list of items, which are not included in Wages.

(ii) Prepare or list of items which are included in Wages.

14.5 RESPONSIBILITY FOR PAYMENT OF WAGES

Regarding responsibility for payment of wages, under section 3 of the Act, it is stated that the employer is responsible for the payment of wages. In the case of persons employed (otherwise than by a contractor) the following persons are also responsible for the payment of wages.

- The person named as manager in a factory.
- In Industrial establishments the person, if any, who is responsible to the employer for the supervision and control of the establishment.
- Upon railways the person nominated by the railway administration in this behalf for the local area concerned.
- In case of persons employed in the case of contractor, a person designated by such contractor who is directly under his charge, shall be responsible for the payment of wages to the employed persons.
- In case of persons employed in any other case, a person designated by the employer as a person responsible for complying with the provisions of this Act, shall be responsible for payment of wages to the employed persons.

According to section 3(2) of the Act. it shall be the responsibility of the employer to make payment of all wages required to be made under this Act in case the contractors or the person designated by the employer fails to make such payments.

The ascended section 3 have removed the doubts regarding responsibility for payment of wages in case the contractor or the person designated by the employer fails to make the payment. Now it has been specifically made clear that in case of such failure on the part of the contractor or designated person, it shall be the responsibility of the employer himself to make the payment of wages.

14.6 TIME OF PAYMENT OF WAGES

Regarding the time of payment of wages, the section 5 of the Act. provides the following rules.

- According to section 5(1) (a), if the number of persons employed upon or in any railway factory or industrial or other establishment is less than 1000, wages shall be paid before the expiry of the seventh day after the last day of the wage period.
- According to Section 5(1)(b), the wages of every person employed upon to in any other railway, factory or Industrial or other establishment shall be paid before the expiry of the tenth day of the lst day of wage period in respect of which the wages are payable further it is provided under the section 5(1) (b), that in the case of persons employed on a dock, Wharf or jetty or in a mine, the balance of wages found due on completion of the final tonnage account of the ship or wagons loaded or unloaded so the case may be, shall be paid before the expiry of the seventh day of such completion.
- According to section 5(2), in case of the termination of the employment of an employee, the wages earned by such employee shall be paid before the expiry of the second working day from the day on which his employment is terminated. However, where the employment of any person in an establishment is terminated due to the closure of the establishment for any reason other than a weekly or other recognised holiday, the wages earned by him shall be paid before the expiry of the second day from the day on which his employment is so terminated. In such a case, the second day may or may not be the working day.
- According to section 5(4) all payment of wages shall be made on a working day. However as discussed above, in case of termination of employment due to closure of establishment, the wages shall be paid before the expiry of second day from the day of termination even if it is not the working days.

- According to section 5(3), the appropriate government may exempt the persons responsible for payment of wage from the operation of the above provisions relating to the time of payment in the followings relating to the time of payment in the following cases – (a) where wages are payable persons employed upon any railway otherwise than in a factory or (b) where wages all payable to persons employed as daily rated workers in public works Department of the Central or State Government of course, in this case no exemption order shall be made except in consultation with the central Government.



LET US KNOW

I. Under section 6, all wages shall be paid in current coin or currency notes or in both of course, the employer may, after obtaining the written authorisation of the employed person, pay him the wages either by cheque or by crediting the wages in his bank account.

II. By an amendment in Maharashtra it was provided that in the case of a bonus which exceeds one fourth of the annual earning of the employee the excess may be paid by cheque invested.



CHECK YOUR PROGRESS: 2

1. Fill in the blanks :

I. Under section ————— of the Act, it is stated that the employer is responsible for the payment of wages.

II. Under section ————— of the Act, the rules of payment of wages are provided.

III. According to section 5(1) (a), if the number of persons employed upon or in any railway factory or Industrial or other establishment is less than ———— wages shall be paid before the expiry of seventh day after the last day of the wage period.

IV. Under section ————— the provision of wages in case of termination is provided.

v. According to section ————— all payment of wages shall be made on a working day.

14.7 DEDUCTION AND ITS VARIOUS KINDS

According to section 7, the wages of an employed person shall be paid to him without deductions of any kind except those which are authorised by this Act. As per the Act, the following deduction are permitted.

- **Fines :** According to the clause (a) of section 7 (2), deductions by way of fine of the wages of an employed person shall be made only in accordance with the provisions of the Act. Below, we briefly discuss the provisions regarding imposition and deduction of fine from the wages of an employed person.
  - ***Approval of the Acts and Omissions :*** According to section 8 (2), fines shall be imposed only in respect of such acts or omissions which have been specified by notice with the approval of the State Government or of the prescribed authority.
  - ***Display of Notice :*** The notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (other wise than a factory) in the prescribed place.
  - ***Opportunity to show cause :*** No fine shall be imposed on any employed person until he has been provided with an opportunity of showing the cause against the fine or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines under the Act.
  - ***Amount of fine :*** The total amount of fine which may be imposed in any wage period on any employed person, shall not exceed 3 percent (previously half anna per rupee) of the

wages payable to him in respect of that wage period.

- ***Age Limit for fine :*** No fine shall be imposed on any employed person, who is under the age of fifteen years.
- ***Not Recoverable in Installments and after under delay :*** Fine imposed on any employed person cannot be recovered in installments, nor it can be recovered after the expiry of 60 days from the day on which it was imposed.
- ***Day of Imposition of fine :*** Every fine shall be deemed to have been imposed of the day of the act or omission in respect of which it was imposed.
- ***Register of fines :*** All fines and their realisation shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 of the Act. in such form as may be prescribed.
- ***Use of fines :*** All fines so realised shall be used only in such purposes which are beneficial to the persons employed in the factory as establishment as are approved by the prescribed authority.
- ***Penalty for Breach :*** The breach of the provision of section 8 is punishable with fine which may extend to Rs. 500/- except in the case of (2) and (9) where the penalty shall extend to Rs. 200.

- **Deductions for absence from Duty :** Clause (b) of the section 7 (2) authorises deductions for absence from duty section 9 of the Act states as under :
  - Deductions may be made only on account of the absence of employed person from the place or places where, by the terms of employment he is required to work.
  - Such absence may be for the whole or any part of the period during which he is so required to work and
  - An employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses to carry out his work in pursuance of

stay-in-strike or for any other cause which is not reasonable under the circumstances.

- **Deductions for damage or loss :** Clause (c) of section 7 (2) authorises deductions for damages to or loss of goods expressly entrusted to the employed person for custody or for loss of money for which he is required to account, where such damage or loss caused to the employer by the neglect of the employed person.
- **Regarding deductions for damages or loss following provisions are laid down under the Act:**
  - Clause (0) of the section 7 (2) permits deductions for recovery or losses sustained by a railway administration on account of any rebate or refunds, incorrectly granted to the employed person where such loss is directly attributable to his neglect or default.
  - Section 10 (1) provides that any deduction for damages or loss shall not exceed the amount of damage or loss caused to the employer by the neglect or default of the employed person.
  - According to section 10 (1-A) deduction for damage or loss shall not be made until the employed person is given an opportunity of showing cause against the deductions.
  - Any such deduction may be made only in accordance with such procedures as may be prescribed for the purpose.
  - According to section 10 (2) all such deduction and all realisation thereof shall be recorded in a register to be kept by the person responsible for the payment of wages in such form as may be prescribed.
  - ***S***Penalty for breach of the above provisions of section 10 shall be punishable with fine which may extend to Rs. 500/-
- **Deductions for Services Rendered :** According to section 11. under clause (d) and (e) of section 7 (2) deduction shall not be made from the wages of an employed person unless the house accommodation, amenity or service having been supplied by the

employer, has been accepted by him as a term of his employment or otherwise. This deduction shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied and the deductions shall further be subject to such conditions as the State Government may impose. Any contravention of the provision in this regard shall be punishable with fine which may enlind upto Rs. 500/-

- **Deduction from Loan advances and overpayment of wages :** Deductions are permitted for recovery of advances or overpayment. According to section 12, it is provided that recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of advances which are given for the travelling expenses. Moreover, it is also provided under section 12 that recovery of advances of wages not already earned shall be subject to any rules made by the State Government regulating the extent to which such advances may be given and the installments by which they may be recovered under section (1-A) deductions for recovery of loans granted for house construction etc. shall be subject to any rules made by the State Government regulating the extent to which such rules may be given and the installments by which they may be recovered.
- **Other :** In addition to above items, following are also deducted from wages –

  (i) Income Tax.

  (ii) Orders of court.

  (iii) Provident Fund.

  (iv) Cooperative Societies and Insurance Schemes.

  (v) Deduction as per written authorisation of employed person.

14.8 CLAIMS FOR WRONGFUL DEDUCTIONS

Section 15 deals with the claims arising out of wrong deductions from wages.

Under section 15(1) of the Act, the State Government is empowered to appoint the authority to hear and decide all claims arising under the Act. The appointment shall be made by a notification in the official Gazette. The authority appointed under section 15(1) can decide only the claims arising out of deductions or delay made in payment of wages and all other matters incidental there to and also the refused wages. The authority has jurisdiction to decide disputes regarding the quantum of wages payable to employed persons also. An application in respect of the following claims can be made to the above authority.

- Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person. or
- Where contrary to the provisions of this Act any payment of wages has been delayed.

Application can be made by any of the following –

- Employed person himself or
- Any legal practitioner authorised in writing to act on his behalf or
- Any official of a Registered Trade Unions authorised in writing to act on his behalf or
- Any Inspector under the Act or
- Any other person acting with the permission of authority appointed to hear such claims under section 15 (1).

Under section 15 (3), the procedure is laid down to be followed by the Authority entertaining an application.

- The authority shall hear the applicant and the employer and other persons responsible for payment of wages under section 3. Thus, after giving them an opportunity of being heard and after such further inquiry as may be necessary, the authority may direct the refund to the employed person, of the amount deducted or the payment of the delayed wages.

- The authority may also direct the payment of such compensation as it thinks fit but not exceeding times the amount of wages deducted and in case of delay, not exceeding Rs. 25.
- In case where the amount deducted the wages delayed are paid before the disposal of the application, the authority can direct the payment of compensation as it may think fit but not exceeding Rs. 25.
- It may also impose upon the employer or the other person may other penalty for delay or deduction under this Act.
- The direction of this provision does not prejudice any other penalty to which the employer or any other person is liable.



LET US KNOW

(i) Section 15(4) lays down, if the authority having the application is satisfied that the application was either malicious or vexations, the authority may direct the applicant to pay a penalty exceeding Rs. 50 to the employer.

(ii) As per provision of Section 16(2), a single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case every person on whose behalf such application is presented may be awarded maximum compensation to the extent specified under section 15(3) of the Act.



CHECK YOUR PROGRESS: 3

1. State True or False

(i) According to the clause (9) of section 7(2) deduction by way of fine out of the wages of an employed person shall be made only in accordance with the provisions of the Act. (True / False)

(ii) According to section 7(2), fine shall be imposed only in respect of such acts or omissions which have been specified by notice with the approval of the State Government. (True / False)

(iii) The total amount of fine shall not exceed 3% of the wages payable to him. (True / False)

(iv) Clause (c) of section 8(2) authorises deductions for damages to or loss of goods. (True / False)

(v) Section 15 deals with the claims using out of wrong deductions from wages. (True / False)



ACTIVITY

i) Twelve employees jointly absent themselves for five days without due notice and without reasonable cause. Can their wages be deducted?

(ii) An employer intends to deduct Rs. 500/- for payment to the co-operative society and Rs. 200 for damages to the goods of the employer from the wages of the employed person. The employed person draws monthly ways of Rs. 900. State with reason whether the employer can validly make these deductions.



14.9 LET US SUM UP

- Wages implies all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable or implied were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment. According to section 2 (i), the appropriate Govt. is the Central Govt. in relation to railway, air transport service, mines and oil field. In relation to all other cases, the appropriate Govt. is the State Govt. According to section 2(i) (a) the employed person includes the legal representative of a deceased employed persons. The main objectives of the Act are to regulate the payment of wages of certain classes of employed

person. Under section 3 of the Act, it is stated that the employer is responsible for the payment of wages. Regarding the time of payment of wages the section 5 of the Act provides that if the number of persons employed upon or in any railway factory or industrial or other establishment is less than 1000 wages shall be paid before the expiry of the seventh day after the last day of the wage period. According to section 7, the wages of an employed person shall be paid to him without deductions of any kind except those which are authorised by this Act. As per the Act, fines, deduction for absence from duly, deduction for damage or loss, deduction for service rendered deduction from Loan, advances and overpayment of wages, income tax. orders of court, provident fund, cooperative societies and insurance schemes, etc deductions are permitted.



14.10 FURTHER READING

1) *Business Law*, By R. S. N. Pillai & Bagavathi

2) *Dynamics of Industrial Relation in India,* By CB Mamoria.

3) *Company Law (Including Company Law and Industrial Law)* By A. K. Sen & J. K. Mitra.



14.11 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: A (v) B (vi) C (ii) D (iv) E (iii) F (i) G (viii) H (vii)

Ans to Q No 2: (I) 3 (II) 5 (III) 1000 (IV) 5(2) (V) 5(4)

Ans to Q No 3: (I) True (II) False (III) True (I V) False (V) True



14.12 MODEL QUESTIONS

Q 1: Define Wages. Explain the objectives and application of the Payment wages Act 1936.

Q 2: Discuss the provisions regarding the responsibility for payment of wages under the Payment of Wages Act 1936.

Q 3: What are the various provisions relating to the time of payment of wages under the Payment of Wages Act 1936.

Q 4: Discuss various permitted reduction from wages under the Act.

*** ***** ***

UNIT 15 : INDUSTRIALIZATION IN THE CONTEXT OF NORTHEAST INDIA

UNIT STRUCTURE

15.1 Learning Objectives

15.2 Introduction

15.3 Industrialization of the North-East Region

15.4 Problems and Prospects Of Small Scale Industries in North-East Region

15.5 Problems of medium and large- scale industries in North- East Region

15.6 Some Existing Industries in North- East Region

15.7 Let us Sum up

15.8 Further Reading

15.9 Answers to check your Progress

15.10 Model Questions

15.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- Know about the industrial sector in north-eastern region of India.
- Know about the problems and prospects of Small- Scale, Medium-Scale and Large- Scale Industries in North Eastern Region

15.2 INTRODUCTION

In this unit, we will discuss the various aspects of north-east Indian region like the problems of unemployment, industrial backwardness etc. This unit will help us in analyzing the various problems and prospects of industrialisation in this region.

15.3 INDUSTRIALIZATION OF THE NORTH-EAST REGION

The economy of North- East India has got its definite identity due to its peculiar physical, economic and socio-cultural characteristics. This region consists of eight states viz., Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura, Sikkim. The NER of India covers an area of 2.62 lakh sq.km. It accounts for 7.9% of total geographical area of the country. With a total population of 39 million (2001), it accounts for 3.8% of total population of India.

There are differences among the eight States in the North Eastern region with respect to their resource endowments, level of industrialization as well as infrastructural facilities. The industrial sector has mainly grown around tea, petroleum (crude), natural gas etc. in Assam and mining, saw mills and steel fabrication units in other parts of the region. The full potential of the region is yet to be exploited and this has left the economy in a primarily agrarian state.

Industrially, the NER continues to be the most backward region in the country, and the states in the region hardly have any industrial base, except perhaps Assam, because of its traditional tea, oil and wood based industries .To some extent Meghalaya has made some headway in setting up of small and medium industries. There are a number of factors contributing to the lack of industrial growth in the region, like

- Poor infrastructure
- Inadequate electricity supply
- Violence and extortion.
- Shyness of capital due to high cost of production
- Vulnerability of the region
- Lack of entrepreneurial motivation on the part of the local people
- Low level of public sector investment, etc.

In recent years the “Look East Policy” of Government of India has made North East more important and strategic. The region has to gear up to take up more challenges and capitalize on the opportunities thrown

open by the huge market in the South East Asian Countries.

The industries of this region can be broadly classified as under:

- **Agro-based industries :** It includes tea industry, sugar industry, grain mill products industry (rice, oil and flour mills), food processing industry and the textile industry.
- **Mineral-based industries :** Mineral-based industries of the north eastern region include railway workshops, engineering industry, and re-Rolling Mills, steelworks, motor-vehicle workshops, galvanized wire units, cycle factories, aluminums utensil industry, cycle spare parts, steel wire net, barbed wire, cement industry etc. Moreover, the non-metal based industries include petroleum oil industry and natural gas-based industry.
- **Forest-based industries :** It includes plywood industry, saw-mill industry, paper and paper pulp industry, match industry, letter industry, hard board industry etc.
- **Other industries :** It includes power generation industry, fertilizer industry, printing press, brick and tiles industry, Ice industry, chemical industry etc.

The industries of the north eastern region can also be classified into (a) organized industries and (b) unorganized industries.

The organized industries of the north eastern region include tea, petroleum, paper, cement, plywood, coal, jute, sugar, fertilizer etc.

In a relative sense, Assam is by far the most industrialized state among the eight states of the region. Tea and petroleum sector dominates the industrial scenario of the state. Assam accounts for slightly less than half of the total crude oil production, 52 percent of tea and about 55 percent of plywood production in the country. Apart from these, the notable addition to the industrial sector has been the setting up of the fiber blended polyester yarn mills based on polyester fiber produced in the Bongaigaon Refinery and Petroleum unit.



CHECK YOUR PROGRESS

Q.A.i. How much area NER Covers?

.....

.....

.....

Q.A.ii. Name two agro-based industries.

.....

.....

15.4 PROBLEMS AND PROSPECTS OF SMALL SCALE INDUSTRIES IN NORTH-EAST REGION

Small- scale industries have been defined as those units that have investment in plant and machineries up to Rs. 1crore. This sector has occupied a place of prominence in our economy. But this sector is suffering from various problems which hamper its growth.

- **Problems of small- scale industries**

  The small- scale industries are facing a number of problems. They are :

  - ***Inefficient manpower :*** Manpower plays an important role in any industry. The inefficiency of manpower in small- scale industries due to illiteracy, ignorance, lack of training facilities etc. affected the growth of small- scale industries.
  - ***Lack of credit facility :*** Another major problem of small-scale industries is the lack of credit facilities. Before nationalization, commercial banks were not interested in providing finance to this sector. This situation has been changed after nationalization of commercial banks but it is far from satisfactory level.
  - Old and obsolete machineries: The small- scale industries are facing the problem in production due to old and obsolete machineries. They are unable to compete with the products of large- scale industries.
  - Lack of marketing facilities: The small- scale industries are

also facing the problem of marketing their products. There is lack of organized marketing facilities for these industries. They have to depend on the middlemen for selling their products. In many cases the market for their products remains untapped.

- Old designs: the small- scale industries are continuing with the age old designs. The products are unable to meet the modern demand.

- **Prospects of small- scale industries**

The small- scale industries play an important role in the development of the economy. Even in developed countries, they occupy an important place. In under-developed countries also, they make great contributions towards economic development. The following are some of the prospects of small- scale industries in North- East Region :

- Labour intensive:The small- scale industries are labour intensive. They will provide more employment opportunities as compared to large- scale industries. It will help in solving the unemployment problem in the region.
- Low capital investment: Small- scale industries need lower capital investment as compared to large- scale industries. As capital is scarce in this region, small- scale industries are most suitable for this region.
- Quick return:In case of small- scale industries, there is less time gap between capital investment and production of goods. Thus, it brings quick return to the businessmen.
- Reduction of pressure on land:People of this region excessively depend on agriculture. The development of small- scale industries will help in diverting the excess workforce to this sector.
- Development of entrepreneurial skill:The development of this sector will result in change of attitude of people of this region. People will develop an entrepreneurial skill, which will help in identifying new areas of investment. This will help in the economic development of the region.

15.5 PROBLEMS OF MEDIUM AND LARGE- SCALE INDUSTRIES IN NORTH- EAST REGION:

The large-scale industries are very crucial for the economic growth of an economy. In under- developed countries, the development of large-scale industries is essential to accelerate the growth rate of these economies. However, these industries are facing a number of problems, which are as follows :

- **Lack of skilled personnel :** The region is facing the problem of lack of technical and efficient personnel required for the large- scale industries. In the absence of technical personnel, it is difficult to handle sophisticated machineries necessary for the industries.
- **Industrial sickness :** Industrial sickness is another major problem faced by the industries in this region. The major industries are facing losses due to inefficient management.
- **Lack of infrastructural facilities :** The industries in this region are facing the problem of lack of infrastructural facilities such as proper transportation and communication facilities. It restricts the growth of large- scale industries.
- **Lack of market :** The large- scale industries produces goods in large quantities. But due to the limited size of the market, they are unable to sell their products resulting in loss to these industries
- **Poor law and order situation :** For proper development of industries, a stable and peaceful environment is essential. But this region is facing the problem of poor law and order situation which restrict the growth of industries.
- **The prospects of large- scale industries are discussed below :**
  - ***Expands employment opportunities :*** The establishment of large- scale industries plays an important role in providing employment opportunities. As the region is facing the problem of unemployment both in urban and rural area, these industries are essential for the region.
  - ***Self- sustained economy :*** The development of large- scale

industries will help the region in attaining self-sufficiency. This sector has higher capacity for saving and investment as well as for generating employment opportunities.

- ***Growth and stability :*** This region is agriculture based. But agriculture is seasonal in nature and depends on rainfall. The growth of industries will reduce the dependence on agriculture, which will help in the development of the region.

15.6 SOME EXISTING INDUSTRIES IN NORTH-EAST REGION

After discussing the various problems and prospects of small, medium and large- scale industries, we are going to discuss some basic industries of the region. These industries are contributing towards the economic development of the region. At the same time they are facing a number of problems due to which their growth prospects has reduced to a considerable extent.

- **Tea Industry :**

  Tea being an agricultural plantation crop and a major revenue generator, plays a vital role in improving the socio-economic condition of the States in the North Eastern Region of India. Assam and Tripura are the traditional tea growing areas in this region. Assam is the largest producer of tea in India. Some effort has been made in the recent past to introduce tea in all the other North Eastern States viz Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Sikkim. Assam accounts for nearly 53% of the all India production and 69% of North Indian production.

  It may be noted here that the sudden rise in the number of tea gardens of Assam and its area under tea (to around three lakh hectares), particularly since the latter half of 1990's was due to the unemployed youths taking to small scale tea production as their profession. There are around 2500 small tea gardens in Assam today adding to the State's total production by more than 50 million

kg. This is certainly a welcome change. But, since they grow in small scale, they cannot go for factory manufacturing and, hence, have to sell out only green leaves to the large estates which often subject them to exploitation.

There are, however, a number of problems of tea industry of Assam. A considerable number of tea gardens of the State have gone sick over the period due to lack of infrastructure, modernization and efficient management. The Assam Tea Corporation, a state-level public sector enterprise, for example, is not functioning at all. Though Assam tea is still earning around 50 per cent of the foreign exchange earned by India's tea industry, its demand is already in recession due to better quality-tea supplied by countries like Sri Lanka, Cuba etc. at comparatively lower prices.

The fate of India's tea industry is largely dependent on what happens to its eastern sector of Assam and West Bengal. What is seriously worrying the tea industry is that even though India still produces 27 percent of global tea output, the quality of product is sadly doubted in the global market. Studies confirm that the root cause of closure of a number of tea gardens in parts of the country was low productivity and lack of investment in plant development activities.

The problems of high cost production and stagnant productivity need be addressed on an urgent basis. It is heartening to note, however, that some important steps in recent times have been taken for development and modernization of the sector. The most important of them are the following :

- Withdrawal of additional excise duty of Re 1.00 per kg on tea as announced in the Union Budget 2005-06.
- Sanctioning of two schemes viz grant of subsidy for production of orthodox teas and assistance to the two Research and Development institutions, viz Tea Research Association at Tocklai (Assam) and United Planters' Association for Southern India Tea Research Foundation with an estimated outlay of Rs. 93 crore for financing. The

Planning Commission is very positive about finding a solution to the tea crisis which the industry has long been suffering from. The Union Commerce Ministry proposed to unveil a 14-year programme for massive replantation and rejuvenation of the tea industry.

- The "Special Tea Fund" will greatly benefit the tea growing states of Assam, West Bengal, Tamil Nadu, Kerala and Uttaranchal. The revival package for tea industry had already been assured of fiscal and tax incentives and of cost effectiveness for both domestic and export markets. The Union Commerce Minister also assured that it would provide concrete support with a special thrust on regeneration of old and replenish able tea bushes. The package which was proposed is also supposed to frame a marketing strategy for increase in sale of the tea in the global market.

While the package if implemented promptly and with all sincerity will go a long way to rescue the tea industry from its long drawn crisis, what fears the stakeholders is that the budgetary announcement of service tax on auctioneering could increase the tea prices if the tax liability is to be borne by the tea growers. If it is so, the market competition would be still tougher and it would affect the global demand for Indian tea. However, the other budgetary action of reducing customs duty on bulk plastics, used for packaging, from 10 per cent to 5 per cent would encourage value addition activity of tea industry because or the reduction of packaging cost.

What is necessary at the moment is that the tea industry get modernized with a change in technique of plantation, improvement of encouragement to the electronic tea auction and managerial excellence. With the "Special Purpose Tea Fund" s, revolving corpus of Rs 1000 crore with a target of replantation in 1.7 lakh hectares over a period of 14 years, the industry could be expected to get back its pride of place in international competitiveness and drive to road of prosperity.

For a better marketing of the tea produced in Assam and the entire North Eastern States, a Tea Auction Centre - Guwahati Tea Auction Centre - was established in 1970 at Guwahati. This is the world's largest CTC tea auction center and the world's second largest in terms of total tea. It now auctions more than 140 million kg of tea valued at more than Rs 550.00 crores annually

- **Oil Industry**

  Assam is the first state in the country where in 1889 oil was struck at Digboi Assam can boast of oldest oil refinery in the country set up at Digboi in 1901. The refinery, now belonging to the Assam Division of the Indian Oil Corporation, has a refining capacity of 3 lakh tons of petrol, kerosene, diesel and other petroleum products. Assam has the oldest and the longest cross country crude oil pipeline (about 1148 km). It is endowed with oil shale reserves, estimated at 137 billion tons with a recovery factor of 20.35%, which is capable of sustaining its crude oil production in the years to come. It also has a significant reserve of low ash high sulphur coal. Oil Exploration in Assam has the highest success ratio in the world. Assam also accounts for one of the biggest pool of professional and skilled manpower engaged in the oil and petroleum industry. Thus, with the State's inherent strength built over a century and with the future potential, Assam offers opportunities for exploration in the oil and gas sector. It has opened up the oil sector to private participants. Also, the declaration of the Brahmaputra as a national waterway has facilitated transportation of raw materials and project equipment for growth of the oil sector. The second refinery in Assam was set up at Noonmati in Guwahati under the public sector. It started production in 1962. It produces liquefied petroleum gas (LPG), petrol, kerosene, diesel, furnace oil, coke etc. The third refinery in the region was established at Dhaligoan near Bongaigaon in 1962. It is known as Bongaigaon Refinery and Petro-Chemicals Limited (BRPL). The fourth refinery in the state was established at Numaligarh of Golaghat district in 1999, with a refining capacity of 3 million tons of oil and other products.

- **Tourism Industry**

The North Eastern part of India is a place of magical beauty and bewildering diversity. It is a land, where exotic wildlife exist in the jungles, where flow rivers like the Brahmaputra, the Barak and where the hills are full of breathtaking landscapes. With more than a hundred and fifty tribes speaking many languages, this region is a melting pot of variegated cultural mosaic of people and races, an ethnic tapestry of many hues and shades. The folk culture is still vital in this region. Well integrated with life and nature, the folk artworks have a common element of tune and tone. It is a tourists' delight.

Tourism has emerged as one of the prospective sectors of industry in the North- East. The north-east boasts of several National parks, animal and bird sanctuaries, heritage sites, historical sites and diverse cultures amidst unexplored territory. Experts foresee a more explosive growth in this sector in the coming decades. In order to further accelerate the development of the sector, the thrust areas pursued are (a) development of infrastructure; (b) product development; (c) development of trekking, winter sports, wildlife and river beach resorts, (d) exploring new sources of markets in regions and countries having cultural affinity; (e) environmental protection and cultural preservation of natural heritage projects; (f) launching of national image building and marketing plan in key markets; (g) providing inexpensive accommodation in different tourist centers; (h) improving service efficiency in public sector corporations; (i) streamlining of facilitation procedures at airports; (j) human resource development; (k) monitoring and evaluation; (l) strengthening of organization; (m) creating awareness and public participation and ; (n) facilitating private sector participation in development of infrastructure etc.

Though the North Eastern Region possesses a rich history, culture and scenic beauty comparable to any other developed tourist spot of the country, the inflow of foreign tourists is very small. Available data shows that the inflow of foreign tourists from different countries of the world to the north-east of India is very low. Nevertheless

efforts are on to project this region as an attractive tourist destination so as to earn revenue for the region and provide employment opportunities to the local people.

- **Silk Industry**

  Silk occupies a unique position among the various textile fibers produced in the world. While cotton, woolen and synthetic fiber, fabrics are manufactured by many countries only a few are prominent in the production of silk fabrics. Sericulture is also a very important agro-based industry and in developing countries like India, a high priority is being accorded to this sector because of its employment potential, particularly in the rural and semi-urban parts of the country.

  Sericulture has an important role in the economic profile of many of the North Eastern states. Some of the states, which have accorded a fairly high priority to sericulture and silk weaving, include Assam, Manipur and Mizoram. Assam is the most important silk producing state in the North Eastern Region. .Assam has got a suitable climate and environment for practising sericulture. There are three varieties of Silk Worms found in Assam, namely - 1. Muga Silk Worms 2. Eri Silk Worms and 3. Paat or Mulberry Silk Worms. Assam is the largest producer of Muga and Eri silk in the country.



CHECK YOUR PROGRESS

Q.B.i. When the Tea Auction Centre at Guwahati was established?

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Q.B.ii. Which is the oldest refinery in India?

.....



15.7 LET US SUM UP

- Industrially, the NER continues to be the most backward region in the country, and the states in the region hardly have any industrial

base, except perhaps Assam, because of its traditional tea, oil and wood based industries .

- To some extent Meghalaya has made some headway in setting up of small and medium industries.
- Tea being an agricultural plantation crop and a major revenue generator, it plays a vital role in improving the socio-economic condition of the States of North Eastern Region of India.
- Assam and Tripura are the traditional tea growing areas in this region.
- Assam is the first state in the country where in 1889 oil was struck at Digboi Assam can boast of oldest oil refinery in the country (set up at Digboi) in 1901
- The refinery, now belonging to the Assam Division of the Indian Oil Corporation, has a refining capacity of 3 lakh tons of petrol, kerosene, diesel and other petroleum products. Assam has the oldest and the longest cross country crude oil pipeline (about 1148 km).
- It is endowed with oil shale reserves, estimated at 137 billion tons with a recovery factor of 20.35%, which is capable of sustaining its crude oil production in the years to come.
- Tourism has emerged as one of the prospective sectors of industry in the North- East.
- The north-east boasts of several National parks, animal and bird sanctuaries, heritage sites, historical sites and diverse cultures amidst unexplored territory.
- Sericulture has an important role in the economic profile of many of the North Eastern states.
- Some of the states, which have accorded a fairly high priority to sericulture and silk weaving, include Assam, Manipur and Mizoram. Assam is the most important silk producing state in the North Eastern Region



15.8 FURTHER READING

1) Ahluwalia, Montek S. (2000): "Economic Performance of States in Post-Reforms Period", *Economic and Political Weekly*, vol. 35, no. 19, pp. 1637-1648.
2) Bajpai, M. (2002): *"A Decade of Economic Reforms in India: The Unfinished Agenda"*, Working Paper no. 89, Center for International Development, Harvard University, http://www.ksg.harvard.edu/CID/cidwp/089.pdf.
3) Barbora, Sanjay (2006): *"Rethinking India's Counter-insurgency Campaign in North-East"*, Economic and Political Weekly, vol. 41, no. 35, pp. 3805-3812.
4) Baruah, Sanjib: *"The Problem"*,http://www.manipuronline.com/North-East/November2005/theproblem23_2.htm.
5) Bhattacharya, B. B. & S. Sakthivel (2004): *"Regional Growth and Disparity in India : A Comparison of Pre and Post-Reform Decades",* http://iegindia.org/worksakthi244.pdf.
6) Chanda, Nayan (2003): *"What is Globalization? Coming Together: Globalization means reconnecting the human community"*, http://www.globalenvision.org/library/8/567.
7) Ghosh, Madhusudan (2006): *"Economic Growth and Human Development in Indian States"*, Economic and Political Weekly, vol. 41, no. 30, pp. 3321-3329.
8) GOI (1997): *"Transforming the North East: Tackling Backlogs in Basic Minimum Services and Infrastructure Needs"*, High Level Commission Report to the Prime Minister, Planning Commission, http://planningcommission.nic.in/reports/genrep/ne_exe.pdf.
9) GOI (2001): *"National Human Development Report"*, Planning Commission, New Delhi, http://planningcommission.nic.in/reports/genrep/nhdrep/nhdreportf.htm

15.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No A: i) 2.62 lakh sq km.

ii) Tea industry and Sugar industry.

Ans to Q No B: i) 1970

ii) Digboi Refinery

15.10 MODEL QUESTIONS

A) Short Questions (Answer each question in about 150 words)

Q 1: Mention two factors leading to lack of industrial growth in the North-Eastern region.

Q 2: Describe about the Silk industry in Assam.

B) Long Questions (Answer each question within 300-500 words)

Q 1: Write an essay about the existing industries in the North-East region.

Q 2: Discuss the problems and prospects of small-scale industries in the North-Eastern region of India.

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REFERENCES

1) Ahluwalia, Montek S. (2000): "Economic Performance of States in Post-Reforms Period", *Economic and Political Weekly*, vol. 35, no. 19, pp. 1637-1648.

2) Bajpai, M. (2002): *"A Decade of Economic Reforms in India: The Unfinished Agenda"*, Working Paper no. 89, Center for International Development, Harvard University, http://www.ksg.harvard.edu/CID/cidwp/089.pdf.

3) Barbora, Sanjay (2006): *"Rethinking India's Counter-insurgency Campaign in North-East"*, Economic and Political Weekly, vol. 41, no. 35, pp. 3805-3812.

4) Baruah, Sanjib: *"The Problem"*,http://www.manipuronline.com/North-East/November2005/theproblem23_2.htm.

5) Bhattacharya, B. B. & S. Sakthivel (2004): *"Regional Growth and Disparity in India : A Comparison of Pre and Post-Reform Decades",* http://iegindia.org/worksakthi244.pdf.

6) *Business Law*, By R. S. N. Pillai & Bagavathi

7) Chanda, Nayan (2003): *"What is Globalization? Coming Together: Globalization means reconnecting the human community"*, http://www.globalenvision.org/library/8/567.

8) Colling Trevor (2010), *Industrial Relations: Theory and Practice*, 3rd Edition, John Wiley & Sons, UK.

9) *Company Law (Including Company Law and Industrial Law)* By A. K. Sen & J. K. Mitra.

10) Current Approaches to Collective Bargaining by ILO,International Labour Office (6 September 1989)

11) *Dynamics of Industrial Relation in India,* By CB Mamoria.

12) Ghosh, Madhusudan (2006): *"Economic Growth and Human Development in Indian States"*, Economic and Political Weekly, vol. 41, no. 30, pp. 3321-3329.

13) GOI (1997): *"Transforming the North East: Tackling Backlogs in Basic Minimum Services and Infrastructure Needs"*, High Level Commission Report to the Prime Minister, Planning Commission, http://planningcommission.nic.in/reports/genrep/ne_exe.pdf.

14) GOI (2001): *"National Human Development Report"*, Planning Commission, New Delhi, http://planningcommission.nic.in/reports/genrep/nhdrep/nhdreportf.htm

15) *Handbook of Industrial Law*, by N. D. Kapoor

16) Hancock Keith and L and Sbury Rusell D (2016), *Industrial Relations Reform: Looking to the Future : Essays in honour of Joe Isaac AO*, Federation Press, Annandale (Australia).

17) *Industrial Law*, by P. L. Malik

18) *Industrial Employment (Standing Orders) Act, 1946*; (Bare Act)

19) Industrial relations, By Arun Monappa.

20) Labour & Industrial Laws, By S.N. Mirsra.

21) Misra S N, *Labour and Industrial Law (2013)*, Central Law Publications, India.

22) Patil B R (2000), Collective Bargaining, Orient Blackswan Pvt Ltd., New Delhi,

23) Personnel Management and Industrial Relations, By N.G. Nair and Latha Nair..

24) Purcell J, Good Industrial Relations (1981),Theory and Practice, Palgrave Macmillan, UK.

25) R. Sivarethinamohna (2010), Industrial Relations and Labour Welfare: Text and Cases, Prentice Hall India Learning Pvt Ltd, India.

26) Ratnam C S V (2003), Negotiated Change: Collective Bargaining, Liberalization and Restructuring in India, 1st edition,SAGE Publications Pvt. Ltd, India,

27) The Workmen's Compensation Act, 1923; (Bare Act)

28) *The Industrial Disputes Act, 1947*; (Bare Act)

29) The Minimum Wages Act 1948; (Bare Act)

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